

115TH CONGRESS
1ST SESSION

S. 52

To make aliens associated with a criminal gang inadmissible, deportable, and ineligible for various forms of relief.

IN THE SENATE OF THE UNITED STATES

JANUARY 5, 2017

Mr. GRASSLEY (for himself, Mr. TILLIS, Mr. CRUZ, Mr. INHOFE, Mr. BOOZMAN, and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To make aliens associated with a criminal gang inadmissible, deportable, and ineligible for various forms of relief.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ALIEN GANG MEMBERS.**

4 (a) DEFINITION.—Section 101(a) of the Immigration
5 and Nationality Act (8 U.S.C. 1101(a)) is amended by
6 adding at the end the following:

7 “(53)(A) The term ‘criminal gang’ means an ongoing
8 group, club, organization, or association of five or more
9 persons—

1 “(i)(I) that has as one of its primary purposes
2 the commission of one or more of the criminal of-
3 fenses described in subparagraph (B); and

4 “(II) the members of which engage, or have en-
5 gaged within the past five years, in a continuing se-
6 ries of offenses described in subparagraph (B); or

7 “(ii) that has been designated as a criminal
8 gang under section 220 by the Secretary of Home-
9 land Security, in consultation with the Attorney
10 General, or by the Secretary of State.

11 “(B) The offenses described in this subparagraph,
12 whether in violation of Federal or State law or foreign law
13 and regardless of whether the offenses occurred before, on,
14 or after the date of the enactment of this paragraph, are
15 the following:

16 “(i) A ‘felony drug offense’ (as defined in sec-
17 tion 102 of the Controlled Substances Act (21
18 U.S.C. 802)).

19 “(ii) An offense under section 274 (relating to
20 bringing in and harboring certain aliens), section
21 277 (relating to aiding or assisting certain aliens to
22 enter the United States), or section 278 (relating to
23 importation of alien for immoral purpose).

24 “(iii) A crime of violence (as defined in section
25 16 of title 18, United States Code).

1 “(iv) A crime involving obstruction of justice,
2 tampering with or retaliating against a witness, vic-
3 tim, or informant, or burglary.

4 “(v) Any conduct punishable under section
5 1028 or 1029 of title 18, United States Code (relat-
6 ing to fraud and related activity in connection with
7 identification documents or access devices), sections
8 1581 through 1594 of such title (relating to peon-
9 age, slavery and trafficking in persons), section
10 1952 of such title (relating to interstate and foreign
11 travel or transportation in aid of racketeering enter-
12 prises), section 1956 of such title (relating to the
13 laundering of monetary instruments), section 1957
14 of such title (relating to engaging in monetary trans-
15 actions in property derived from specified unlawful
16 activity), or sections 2312 through 2315 of such title
17 (relating to interstate transportation of stolen motor
18 vehicles or stolen property).

19 “(vi) A conspiracy to commit an offense de-
20 scribed in clauses (i) through (v).

21 “(C) Notwithstanding any other provision of law (in-
22 cluding any effective date), the term ‘criminal gang’ ap-
23 plies regardless of whether the conduct occurred before,
24 on, or after the date of the enactment of this paragraph.”.

1 (b) INADMISSIBILITY.—Section 212(a)(2) of the Im-
2 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is
3 amended by adding at the end the following:

4 “(J) ALIENS ASSOCIATED WITH CRIMINAL
5 GANGS.—Any alien is inadmissible if a consular
6 officer, the Secretary of Homeland Security, or
7 the Attorney General knows or has reason to
8 believe that the alien—

9 “(i) is or has been a member of a
10 criminal gang; or

11 “(ii) has participated in the activities
12 of a criminal gang, knowing or having rea-
13 son to know that such activities will pro-
14 mote, further, aid, or support the illegal
15 activity of the criminal gang.”.

16 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
17 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
18 amended by adding at the end the following:

19 “(G) ALIENS ASSOCIATED WITH CRIMINAL
20 GANGS.—Any alien is deportable if the Sec-
21 retary of Homeland Security or the Attorney
22 General knows or has reason to believe that the
23 alien—

24 “(i) is or has been a member of a
25 criminal gang; or

1 “(ii) has participated in the activities
2 of a criminal gang, knowing or having rea-
3 son to know that such activities will pro-
4 mote, further, aid, or support the illegal
5 activity of the criminal gang.”.

6 (d) DESIGNATION.—

7 (1) IN GENERAL.—Chapter 2 of title II of the
8 Immigration and Nationality Act (8 U.S.C. 1181 et
9 seq.) is amended by adding at the end the following:

10 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

11 “(a) IN GENERAL.—The Secretary of Homeland Se-
12 curity, in consultation with the Attorney General, or the
13 Secretary of State may designate a group or association
14 as a criminal gang if their conduct is described in section
15 101(a)(53) or if the group or association conduct poses
16 a significant risk that threatens the security and the pub-
17 lic safety of nationals of the United States or the national
18 security, homeland security, foreign policy, or economy of
19 the United States.

20 “(b) EFFECTIVE DATE.—A designation made under
21 subsection (a) shall remain in effect until the designation
22 is revoked after consultation between the Secretary of
23 Homeland Security, the Attorney General, and the Sec-
24 retary of State or is terminated in accordance with Fed-
25 eral law.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
2 tents in the first section of the Immigration and Na-
3 tionality Act is amended by inserting after the item
4 relating to section 219 the following:

“220. Designation of criminal gangs.”.

5 (e) MANDATORY DETENTION OF CRIMINAL GANG
6 MEMBERS.—

7 (1) IN GENERAL.—Section 236(c)(1)(D) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1226(c)(1)(D)) is amended—

10 (A) by striking “section 212(a)(3)(B)” and
11 inserting “paragraph (2)(J) or (3)(B) of section
12 212(a)”; and

13 (B) by striking “237(a)(4)(B),” and in-
14 serting “paragraph (2)(G) or (4)(B) of section
15 237(a),”.

16 (2) ANNUAL REPORT.—Not later than March 1
17 of each year (beginning 1 year after the date of the
18 enactment of this Act), the Secretary of Homeland
19 Security, after consultation with the appropriate
20 Federal agencies, shall submit a report to the Com-
21 mittee on the Judiciary of the Senate and the Com-
22 mittee on the Judiciary of the House of Representa-
23 tives on the number of aliens detained as a result of
24 the amendments made by paragraph (1).

1 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
2 ATION.—

3 (1) INELIGIBILITY FOR ASYLUM.—Section
4 208(b)(2)(A) of the Immigration and Nationality
5 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

6 (A) in clause (v), by striking “or” at the
7 end;

8 (B) by redesignating clause (vi) as clause
9 (vii); and

10 (C) by inserting after clause (v) the fol-
11 lowing:

12 “(vi) the alien is described in section
13 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating
14 to participation in criminal gangs); or”.

15 (2) INAPPLICABILITY OF RESTRICTION ON RE-
16 MOVAL TO CERTAIN COUNTRIES.—Section
17 241(b)(3)(B) of the Immigration and Nationality
18 Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the
19 matter preceding clause (i), by inserting “who is de-
20 scribed in section 212(a)(2)(J)(i) or section
21 237(a)(2)(G)(i) or who is” after “to an alien”.

22 (g) TEMPORARY PROTECTED STATUS.—Section 244
23 of the Immigration and Nationality Act (8 U.S.C. 1254a)
24 is amended—

1 (1) by striking “Attorney General” each place
2 that term appears and inserting “Secretary of
3 Homeland Security”;

4 (2) in subparagraph (e)(2)(B)—

5 (A) in clause (i), by striking “States, or”
6 and inserting “States;”;

7 (B) in clause (ii), by striking the period
8 and inserting “; or”; and

9 (C) by adding at the end the following:

10 “(iii) the alien is a member of a crimi-
11 nal gang.”; and

12 (3) in subsection (d)—

13 (A) by striking paragraph (3);

14 (B) by redesignating paragraph (4) as
15 paragraph (3); and

16 (C) in paragraph (3), as redesignated, by
17 adding at the end the following: “The Secretary
18 of Homeland Security may detain an alien pro-
19 vided temporary protected status under this
20 section whenever appropriate under any other
21 provision of law.”.

22 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
23 101(a)(27)(J)(iii) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

25 (1) in subclause (I), by striking “and”;

1 (2) in subclause (II), by adding “and” at the
2 end; and

3 (3) by adding at the end the following:

4 “(III) no alien who is a member
5 of a criminal gang shall be eligible for
6 any immigration benefit under this
7 subparagraph;”.

8 (i) DEFERRED ACTION.—An alien described in sec-
9 tion 212(a)(2)(J) of the Immigration and Nationality Act,
10 as added by subsection (b), shall not be eligible for de-
11 ferred action.

12 (j) PAROLE.—An alien described in section
13 212(a)(2)(J) of the Immigration and Nationality Act, as
14 added by subsection (b), shall not be eligible for parole
15 under section 212(d)(5)(A) of such Act unless—

16 (1) the alien is assisting or has assisted the
17 United States Government in a law enforcement
18 matter, including a criminal investigation; and

19 (2) the alien’s presence in the United States is
20 required by the Government with respect to such as-
21 sistance.

22 (k) EFFECTIVE DATE.—The amendments made by
23 this section—

24 (1) shall take effect on the date of the enact-
25 ment of this Act; and

1 (2) shall apply to acts that occur before, on, or
2 after such date.

3 **SEC. 2. MANDATORY EXPEDITED REMOVAL OF DANGEROUS**
4 **CRIMINALS, TERRORISTS, AND GANG MEM-**
5 **BERS.**

6 (a) **IN GENERAL.**—Notwithstanding any other provi-
7 sion of law, an immigration officer who finds an alien de-
8 scribed in subsection (b) at a land border or port of entry
9 of the United States and determines that such alien is in-
10 admissible under the Immigration and Nationality Act (8
11 U.S.C. 1101 et seq.) shall treat such alien in accordance
12 with section 235 of the Immigration and Nationality Act
13 (8 U.S.C. 1225).

14 (b) **THREATS TO PUBLIC SAFETY.**—An alien de-
15 scribed in this subsection is an alien who the Secretary
16 of Homeland Security determines, or has reason to be-
17 lieve—

18 (1) has been convicted of any offense carrying
19 a maximum term of imprisonment of more than 180
20 days;

21 (2) has been convicted of an offense involving—
22 (A) domestic violence (as defined in section
23 40002(a) of the Violence Against Women Act of
24 1994 (42 U.S.C. 13925(a)));

1 (B) child abuse and neglect (as defined in
2 section 40002(a) of the Violence Against
3 Women Act of 1994 (42 U.S.C. 13925(a)));

4 (C) assault resulting in bodily injury (as
5 defined in section 2266 of title 18, United
6 States Code);

7 (D) the violation of a protection order (as
8 defined in section 2266 of title 18, United
9 States Code);

10 (E) driving while intoxicated (as defined in
11 section 164(a) of title 23, United States Code);

12 or

13 (F) any offense under foreign law, except
14 for a purely political offense, which, if the of-
15 fense had been committed in the United States,
16 would render the alien inadmissible under sec-
17 tion 212(a) of the Immigration and Nationality
18 Act (8 U.S.C. 1182(a));

19 (3) has been convicted of more than one crimi-
20 nal offense (other than minor traffic offenses);

21 (4) has engaged in, is engaged in, or is likely
22 to engage after entry in any terrorist activity (as de-
23 fined in section 212(a)(3)(B)(iii) of the Immigration
24 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))),
25 or intends to participate or has participated in the

1 activities of a foreign terrorist organization (as des-
2 ignated under section 219 of the Immigration and
3 Nationality Act (8 U.S.C. 1189));

4 (5) is or was a member of a criminal street
5 gang (as defined in paragraph (53) of section 101(a)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1101(a)), as added by section 1(a)); or

8 (6) has entered the United States more than
9 one time in violation of section 275(a) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1325(a)),
11 knowing that such entry was unlawful.

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