

119TH CONGRESS
1ST SESSION

H. R. 175

To amend the Immigration and Nationality Act with respect to aliens associated with criminal gangs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2025

Mr. MCCLINTOCK (for himself, Mr. WEBER of Texas, Ms. TENNEY, Mr. NEHLS, Ms. HAGEMAN, and Mr. OGLES) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act with respect to aliens associated with criminal gangs, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Deport Alien Gang
5 Members Act”.

1 **SEC. 2. GROUNDS OF INADMISSIBILITY AND DEPORT-**
2 **ABILITY FOR ALIEN GANG MEMBERS.**

3 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)) is amended by adding at the end the following:
6 “(53) The term ‘criminal gang’ means an ongoing
7 group, club, organization, or association of 5 or more per-
8 sons that has as 1 of its primary purposes the commission
9 of 1 or more of the offenses described in this paragraph
10 and the members of which engage, or have engaged within
11 the past 5 years, in a continuing series of such offenses,
12 or that has been designated as a criminal gang by the Sec-
13 retary of Homeland Security, in consultation with the At-
14 torney General, as meeting these criteria. The offenses de-
15 scribed, whether committed, in whole or in part, within
16 or outside of the United States and regardless of whether
17 the offenses occurred before, on, or after the date of the
18 enactment of this paragraph, are the following:

19 “(A) A Federal, State, local, or Tribal offense
20 that is punishable by imprisonment for more than 1
21 year and relates to a controlled substance (as so
22 classified under the relevant Federal, State, local, or
23 Tribal law), regardless of whether the substance is
24 classified as a controlled substance under section
25 102 of the Controlled Substances Act (21 U.S.C.
26 802).

1 “(B) A foreign offense that is punishable by im-
2 prisonment for more than 1 year and relates to a
3 controlled substance as defined under section 102 of
4 the Controlled Substances Act (21 U.S.C. 802).

5 “(C) An offense that is punishable by imprison-
6 ment for more than 1 year and involves firearms or
7 explosives (as defined under the relevant Federal,
8 State, local, Tribal, or foreign law) or in violation of
9 section 931 of title 18, United States Code (relating
10 to purchase, ownership, or possession of body armor
11 by violent felons).

12 “(D) An offense under section 274 (relating to
13 bringing in and harboring certain aliens), section
14 277 (relating to aiding or assisting certain aliens to
15 enter the United States), or section 278 (relating to
16 importation of alien for immoral purpose).

17 “(E) A crime of violence (as defined in section
18 16(a) of title 18, United States Code).

19 “(F) A crime involving obstruction of justice,
20 tampering with or retaliating against a witness, vic-
21 tim, or informant, or burglary (as such terms are
22 defined under the relevant Federal, State, local,
23 Tribal, or foreign law).

24 “(G) Any conduct punishable under sections
25 1028, 1028A, and 1029 of title 18, United States

1 Code (relating to fraud, aggravated identity theft or
2 fraud and related activity in connection with identi-
3 fication documents or access devices), sections 1581
4 through 1594 of such title (relating to peonage, slav-
5 ery, and trafficking in persons), section 1951 of
6 such title (relating to interference with commerce by
7 threats or violence), section 1952 of such title (relat-
8 ing to interstate and foreign travel or transportation
9 in aid of racketeering enterprises), section 1956 of
10 such title (relating to the laundering of monetary in-
11 struments), section 1957 of such title (relating to
12 engaging in monetary transactions in property de-
13 rived from specified unlawful activity), or sections
14 2312 through 2315 of such title (relating to inter-
15 state transportation of stolen motor vehicles or sto-
16 len property).

17 “(H) A conspiracy to commit an offense de-
18 scribed in subparagraphs (A) through (G).”.

19 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
20 (8 U.S.C. 1182(a)(2)) is amended by adding at the end
21 the following:

22 “(J) ALIENS ASSOCIATED WITH CRIMINAL
23 GANGS.—Any alien is inadmissible who a con-
24 sular officer, an immigration officer, the Sec-

retary of Homeland Security, or the Attorney
General knows, or has reason to believe—

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

“(ii) has promoted, conspired with,
aided, or participated in the activities of a
criminal gang, whether within or outside of
the United States; or

“(iii) seeks to enter the United States,
or has entered the United States, in fur-
therance of the activities of a criminal
gang, whether those activities take place
within or outside of the United States.”.

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

“(G) ALIENS ASSOCIATED WITH CRIMINAL
GANGS.—Any alien is deportable who—

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

“(ii) has promoted, conspired with,
aided, or participated in the activities of a
criminal gang, whether within or outside of
the United States.”.

(d) DESIGNATION.—

1 (1) IN GENERAL.—Chapter 2 of title II of the
2 Immigration and Nationality Act (8 U.S.C. 1182) is
3 amended by inserting after section 219 the fol-
4 lowing:

“Sec. 220. Designation of criminal gang.

5 “(a) DESIGNATION.—

6 “(1) IN GENERAL.—The Secretary of Homeland
7 Security, in consultation with the Attorney General,
8 may designate a group, club, organization, or asso-
9 ciation of 5 or more persons as a criminal gang if
10 the Secretary finds that their conduct is described in
11 section 101(a)(53).

12 “(2) PROCEDURE.—

13 “(A) NOTIFICATION.—7 days before mak-
14 ing a designation under this subsection, the
15 Secretary shall, by classified communication,
16 notify the Speaker and minority leader of the
17 House of Representatives, the president pro
18 tempore, majority leader, and minority leader of
19 the Senate, and the members of the relevant
20 committees of the House of Representatives and
21 the Senate, in writing, of the intent to des-
22 ignate a group, club, organization, or associa-
23 tion of 5 or more persons under this subsection
24 and the factual basis therefor.

1 “(B) PUBLICATION IN THE FEDERAL REG-
2 ISTER.—The Secretary shall publish the des-
3 ignation in the Federal Register 7 days after
4 providing the notification under subparagraph
5 (A).

6 “(3) RECORD.—

7 “(A) IN GENERAL.—In making a designa-
8 tion under this subsection, the Secretary shall
9 create an administrative record.

10 “(B) CLASSIFIED INFORMATION.—The
11 Secretary may consider classified information in
12 making a designation under this subsection.
13 Classified information shall not be subject to
14 disclosure for such time as it remains classified,
15 except that such information may be disclosed
16 to a court ex parte and in camera for purposes
17 of judicial review under subsection (c).

18 “(4) PERIOD OF DESIGNATION.—

19 “(A) IN GENERAL.—A designation under
20 this subsection shall be effective for all purposes
21 until revoked under paragraph (5) or (6) or set
22 aside pursuant to subsection (c).

23 “(B) REVIEW OF DESIGNATION UPON PE-
24 TITION.—

1 “(i) IN GENERAL.—The Secretary
2 shall review the designation of a criminal
3 gang under the procedures set forth in
4 clauses (iii) and (iv) if the designated
5 group, club, organization, or association of
6 5 or more persons files a petition for rev-
7 ocation within the petition period described
8 in clause (ii).

9 “(ii) PETITION PERIOD.—For pur-
10 poses of clause (i)—

11 “(I) if the designated group,
12 club, organization, or association of 5
13 or more persons has not previously
14 filed a petition for revocation under
15 this subparagraph, the petition period
16 begins 2 years after the date on which
17 the designation was made; or

18 “(II) if the designated group,
19 club, organization, or association of 5
20 or more persons has previously filed a
21 petition for revocation under this sub-
22 paragraph, the petition period begins
23 2 years after the date of the deter-
24 mination made under clause (iv) on
25 that petition.

1 “(iii) PROCEDURES.—Any group,
2 club, organization, or association of 5 or
3 more persons that submits a petition for
4 revocation under this subparagraph of its
5 designation as a criminal gang must pro-
6 vide evidence in that petition that it is not
7 described in section 101(a)(53).

8 “(iv) DETERMINATION.—

9 “(I) IN GENERAL.—Not later
10 than 30 days after receiving a petition
11 for revocation submitted under this
12 subparagraph, the Secretary shall
13 make a determination as to such rev-
14 ocation.

15 “(II) CLASSIFIED INFORMA-
16 TION.—The Secretary may consider
17 classified information in making a de-
18 termination in response to a petition
19 for revocation. Classified information
20 shall not be subject to disclosure for
21 such time as it remains classified, ex-
22 cept that such information may be
23 disclosed to a court ex parte and in
24 camera for purposes of judicial review
25 under subsection (c).

1 “(III) PUBLICATION OF DETER-
2 MINATION.—A determination made by
3 the Secretary under this clause shall
4 be published in the Federal Register.

5 “(IV) PROCEDURES.—Any rev-
6 ocation by the Secretary shall be
7 made in accordance with paragraph
8 (6).

9 “(C) OTHER REVIEW OF DESIGNATION.—

10 “(i) IN GENERAL.—If in a 5-year pe-
11 riod no review has taken place under sub-
12 paragraph (B), the Secretary shall review
13 the designation of the criminal gang in
14 order to determine whether such designa-
15 tion should be revoked pursuant to para-
16 graph (6).

17 “(ii) PROCEDURES.—If a review does
18 not take place pursuant to subparagraph
19 (B) in response to a petition for revocation
20 that is filed in accordance with that sub-
21 paragraph, then the review shall be con-
22 ducted pursuant to procedures established
23 by the Secretary. The results of such re-
24 view and the applicable procedures shall
25 not be reviewable in any court.

1 “(iii) PUBLICATION OF RESULTS OF
2 REVIEW.—The Secretary shall publish any
3 determination made pursuant to this sub-
4 paragraph in the Federal Register.

5 “(5) REVOCATION BY ACT OF CONGRESS.—The
6 Congress, by an Act of Congress, may block or re-
7 voke a designation made under paragraph (1).

8 “(6) REVOCATION BASED ON CHANGE IN CIR-
9 CUMSTANCES.—

10 “(A) IN GENERAL.—The Secretary may re-
11 voke a designation made under paragraph (1)
12 at any time, and shall revoke a designation
13 upon completion of a review conducted pursu-
14 ant to subparagraphs (B) and (C) of paragraph
15 (4) if the Secretary finds that—

16 “(i) the group, club, organization, or
17 association of 5 or more persons that has
18 been designated as a criminal gang is no
19 longer described in section 101(a)(53); or

20 “(ii) the national security or the law
21 enforcement interests of the United States
22 warrants a revocation.

23 “(B) PROCEDURE.—The procedural re-
24 quirements of paragraphs (2) and (3) shall
25 apply to a revocation under this paragraph. Any

1 revocation shall take effect on the date specified
2 in the revocation or upon publication in the
3 Federal Register if no effective date is specified.

4 “(7) EFFECT OF REVOCATION.—The revocation
5 of a designation under paragraph (5) or (6) shall
6 not affect any action or proceeding based on conduct
7 committed prior to the effective date of such revoca-
8 tion.

9 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
10 ING.—If a designation under this subsection has be-
11 come effective under paragraph (2) an alien in a re-
12 moval proceeding shall not be permitted to raise any
13 question concerning the validity of the issuance of
14 such designation as a defense or an objection.

15 “(b) AMENDMENTS TO A DESIGNATION.—

16 “(1) IN GENERAL.—The Secretary may amend
17 a designation under this subsection if the Secretary
18 finds that the group, club, organization, or associa-
19 tion of 5 or more persons has changed its name,
20 adopted a new alias, dissolved and then reconsti-
21 tuted itself under a different name or names, or
22 merged with another group, club, organization, or
23 association of 5 or more persons.

24 “(2) PROCEDURE.—Amendments made to a
25 designation in accordance with paragraph (1) shall

1 be effective upon publication in the Federal Register.
2 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
3 section (a) shall also apply to an amended designa-
4 tion.

5 “(3) ADMINISTRATIVE RECORD.—The adminis-
6 trative record shall be corrected to include the
7 amendments as well as any additional relevant infor-
8 mation that supports those amendments.

9 “(4) CLASSIFIED INFORMATION.—The Sec-
10 retary may consider classified information in amend-
11 ing a designation in accordance with this subsection.
12 Classified information shall not be subject to disclo-
13 sure for such time as it remains classified, except
14 that such information may be disclosed to a court ex
15 parte and in camera for purposes of judicial review
16 under subsection (c) of this section.

17 “(c) JUDICIAL REVIEW OF DESIGNATION.—

18 “(1) IN GENERAL.—Not later than 30 days
19 after publication in the Federal Register of a des-
20 ignation, an amended designation, or a determina-
21 tion in response to a petition for revocation, the des-
22 ignated group, club, organization, or association of 5
23 or more persons may seek judicial review in the
24 United States Court of Appeals for the District of
25 Columbia Circuit.

1 “(2) BASIS OF REVIEW.—Review under this
2 subsection shall be based solely upon the administra-
3 tive record, except that the Government may submit,
4 for ex parte and in camera review, classified infor-
5 mation used in making the designation, amended
6 designation, or determination in response to a peti-
7 tion for revocation.

8 “(3) SCOPE OF REVIEW.—The Court shall hold
9 unlawful and set aside a designation, amended des-
10 ignation, or determination in response to a petition
11 for revocation the court finds to be—

12 “(A) arbitrary, capricious, an abuse of dis-
13 cretion, or otherwise not in accordance with
14 law;

15 “(B) contrary to constitutional right,
16 power, privilege, or immunity;

17 “(C) in excess of statutory jurisdiction, au-
18 thority, or limitation, or short of statutory
19 right;

20 “(D) lacking substantial support in the ad-
21 ministrative record taken as a whole or in clas-
22 sified information submitted to the court under
23 paragraph (2); or

24 “(E) not in accord with the procedures re-
25 quired by law.

1 “(4) JUDICIAL REVIEW INVOKED.—The pend-
2 ency of an action for judicial review of a designation,
3 amended designation, or determination in response
4 to a petition for revocation shall not affect the appli-
5 cation of this section, unless the court issues a final
6 order setting aside the designation, amended des-
7 ignation, or determination in response to a petition
8 for revocation.

9 “(5) EXPEDITED REVIEW.—It shall be the duty
10 of the Court to advance on the docket and expedite
11 to the greatest possible extent the disposition of any
12 case considered under this subsection.

13 “(d) DEFINITIONS.—As used in this section—

14 “(1) the term ‘classified information’ has the
15 meaning given that term in section 1(a) of the Clas-
16 sified Information Procedures Act (18 U.S.C. App.);

17 “(2) the term ‘national security’ means the na-
18 tional defense, foreign relations, or economic inter-
19 ests of the United States;

20 “(3) the term ‘relevant committees’ means the
21 Committees on the Judiciary of the Senate and of
22 the House of Representatives; and

23 “(4) the term ‘Secretary’ means the Secretary
24 of Homeland Security, in consultation with the At-
25 torney General.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
 2 tents for such Act is amended by inserting after the
 3 item relating to section 219 the following:

“Sec. 220. Designation.”.

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

6 (1) IN GENERAL.—Section 236(c)(1) of the Im-
 7 migration and Nationality Act (8 U.S.C. 1226(c)(1))
 8 is amended—

9 (A) in subparagraph (C), by striking “or”
 10 at the end;

11 (B) in subparagraph (D), by inserting
 12 “or” at the end; and

13 (C) by inserting after subparagraph (D)
 14 the following:

15 “(E) is inadmissible under section
 16 212(a)(2)(J) or deportable under section
 17 217(a)(2)(G),”.

18 (2) ANNUAL REPORT.—Not later than March 1
 19 of each year (beginning 1 year after the date of the
 20 enactment of this Act), the Secretary of Homeland
 21 Security, after consultation with the appropriate
 22 Federal agencies, shall submit a report to the Com-
 23 mittees on the Judiciary of the House of Represent-
 24 atives and of the Senate on the number of aliens de-

1 tained under the amendments made by paragraph
2 (1).

3 (f) CLAIMS BASED ON GANG AFFILIATION.—

4 (1) INAPPLICABILITY OF RESTRICTION ON RE-
5 MOVAL TO CERTAIN COUNTRIES.—Section
6 241(b)(3)(B) of the Immigration and Nationality
7 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
8 matter preceding clause (i), by inserting “who is de-
9 scribed in section 212(a)(2)(J)(i) or section
10 237(a)(2)(G)(i) or who is” after “to an alien”.

11 (2) INELIGIBILITY FOR ASYLUM.—Section
12 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
13 (as amended by section 201 of this Act) is further
14 amended—

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

17 (B) by redesignating clause (vi) as clause
18 (vii); and

19 (C) by inserting after clause (v) the fol-
20 lowing:

21 “(vi) the alien is described in section
22 212(a)(2)(J)(i) or section 237(a)(2)(G)(i);
23 or”.

24 (g) TEMPORARY PROTECTED STATUS.—Section 244
25 of such Act (8 U.S.C. 1254a) is amended—

1 (1) by striking “Attorney General” each place
2 it appears and inserting “Secretary of Homeland Se-
3 curity”;

4 (2) in subparagraph (c)(2)(B)—

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

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, or at any time has
11 been, described in section 212(a)(2)(J) or
12 section 237(a)(2)(G).”; and

13 (3) in subsection (d)—

14 (A) by striking paragraph (3); and

15 (B) in paragraph (4), by adding at the end
16 the following: “The Secretary of Homeland Se-
17 curity may detain an alien provided temporary
18 protected status under this section whenever
19 appropriate under any other provision of law.”.

20 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
21 101(a)(27)(J)(iii) of the Immigration and Nationality Act
22 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

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

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

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

2 “(III) no alien who is, or at any
3 time has been, described in section
4 212(a)(2)(J) or section 237(a)(2)(G)
5 shall be eligible for any immigration
6 benefit under this subparagraph;”.

7 (i) PAROLE.—An alien described in section
8 212(a)(2)(J) of the Immigration and Nationality Act, as
9 added by subsection (b), shall not be eligible for parole
10 under section 212(d)(5)(A) of such Act unless—

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

14 (2) the alien’s presence in the United States is
15 required by the Government with respect to such as-
16 sistance.

17 (j) INELIGIBILITY FOR OTHER RELIEF.—An alien
18 described in section 212(a)(2)(J) or 237(a)(2)(G) of the
19 Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(J)
20 or 1227(a)(2)(G)) shall be ineligible for any other relief
21 under the immigration laws, including under section 2242
22 of the Omnibus Consolidated and Emergency Supple-
23 mental Appropriations Act, 1999 (and any regulations
24 issued pursuant to such section).

1 (k) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act and shall apply to acts that occur before, on,
4 or after the date of the enactment of this Act.

