

117TH CONGRESS
1ST SESSION

H. R. 1995

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2021

Mr. ZELDIN (for himself and Mr. BROOKS) 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 “Protecting Our Com-
5 munities from Gang Violence Act of 2021”.

6 **SEC. 2. DEFINITION OF CRIMINAL GANG.**

7 Section 101(a) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(a)) is amended by adding at the end
9 the following:

1 “(53) The term ‘criminal gang’ means an ongoing
2 group, club, organization, or association of five
3 or more persons that has as one of its primary purposes
4 the commission of one or more of the following
5 criminal offenses and the members of which engage,
6 or have engaged within the past 5 years, in a continuing
7 series of such offenses, or that has been designated
8 as a criminal gang by the Secretary of
9 Homeland Security, in consultation with the Attorney
10 General, as meeting these criteria. The offenses
11 described, whether in violation of Federal or State
12 law or foreign law and regardless of whether the offenses
13 occurred before, on, or after the date of the
14 enactment of this paragraph, are the following:

15 “(A) A ‘felony drug offense’ (as defined in
16 section 102 of the Controlled Substances Act
17 (21 U.S.C. 802)).

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

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

1 “(D) A crime involving obstruction of jus-
2 tice, tampering with or retaliating against a
3 witness, victim, or informant, or burglary.

4 “(E) Any conduct punishable under sec-
5 tions 1028 and 1029 of title 18, United States
6 Code (relating to fraud and related activity in
7 connection with identification documents or ac-
8 cess devices), sections 1581 through 1594 of
9 such title (relating to peonage, slavery, and
10 trafficking in persons), section 1951 of such
11 title (relating to interference with commerce by
12 threats or violence), section 1952 of such title
13 (relating to interstate and foreign travel or
14 transportation in aid of racketeering enter-
15 prises), section 1956 of such title (relating to
16 the laundering of monetary instruments), sec-
17 tion 1957 of such title (relating to engaging in
18 monetary transactions in property derived from
19 specified unlawful activity), or sections 2312
20 through 2315 of such title (relating to inter-
21 state transportation of stolen motor vehicles or
22 stolen property).

23 “(F) A conspiracy to commit an offense
24 described in subparagraphs (A) through (E).”.

1 **SEC. 3. GROUNDS OF INADMISSIBILITY AND DEPORT-**
2 **ABILITY FOR ALIEN GANG MEMBERS.**

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

6 “(J) ALIENS ASSOCIATED WITH CRIMINAL
7 GANGS.—Any alien is inadmissible who a con-
8 sular officer, the Secretary of Homeland Secu-
9 rity, or the Attorney General knows or has rea-
10 son to believe—

11 “(i) to be or to have been a member
12 of a criminal gang (as defined in section
13 101(a)(53)); or

14 “(ii) to have participated in the activi-
15 ties of a criminal gang (as defined in sec-
16 tion 101(a)(53)), knowing or having reason
17 to know that such activities will promote,
18 further, aid, or support the illegal activity
19 of the criminal gang.”.

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

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

1 “(i) is or has been a member of a
2 criminal gang (as defined in section
3 101(a)(53)); or

4 “(ii) has participated in the activities
5 of a criminal gang (as so defined), knowing
6 or having reason to know that such activi-
7 ties will promote, further, aid, or support
8 the illegal activity of the criminal gang.”.

9 (c) DESIGNATION.—

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

14 “DESIGNATION OF CRIMINAL GANG

15 “SEC. 220. (a) DESIGNATION.—

16 “(1) IN GENERAL.—The Secretary of Homeland Se-
17 curity, in consultation with the Attorney General, may
18 designate a group, club, organization, or association of 5
19 or more persons as a criminal gang if the Secretary finds
20 that their conduct is described in section 101(a)(53).

21 “(2) PROCEDURE.—

22 “(A) NOTIFICATION.—Seven days before mak-
23 ing a designation under this subsection, the Sec-
24 retary shall, by classified communication, notify the
25 Speaker and minority leader of the House of Rep-
26 resentatives, the President pro tempore, majority

1 leader, and minority leader of the Senate, and the
2 members of the relevant committees of the House of
3 Representatives and the Senate, in writing, of the
4 intent to designate a group, club, organization, or
5 association of 5 or more persons under this sub-
6 section and the factual basis therefor.

7 “(B) PUBLICATION IN THE FEDERAL REG-
8 ISTER.—The Secretary shall publish the designation
9 in the Federal Register seven days after providing
10 the notification under subparagraph (A).

11 “(3) RECORD.—

12 “(A) IN GENERAL.—In making a designation
13 under this subsection, the Secretary shall create an
14 administrative record.

15 “(B) CLASSIFIED INFORMATION.—The Sec-
16 retary may consider classified information in making
17 a designation under this subsection. Classified infor-
18 mation shall not be subject to disclosure for such
19 time as it remains classified, except that such infor-
20 mation may be disclosed to a court ex parte and in
21 camera for purposes of judicial review under sub-
22 section (c).

23 “(4) PERIOD OF DESIGNATION.—

24 “(A) IN GENERAL.—A designation under this
25 subsection shall be effective for all purposes until re-

1 voked under paragraph (5) or (6) or set aside pursu-
2 ant to subsection (c).

3 “(B) REVIEW OF DESIGNATION UPON PETI-
4 TION.—

5 “(i) IN GENERAL.—The Secretary shall re-
6 view the designation of a criminal gang under
7 the procedures set forth in clauses (iii) and (iv)
8 if the designated group, club, organization, or
9 association of 5 or more persons files a petition
10 for revocation within the petition period de-
11 scribed in clause (ii).

12 “(ii) PETITION PERIOD.—For purposes of
13 clause (i)—

14 “(I) if the designated group, club, or-
15 ganization, or association of 5 or more per-
16 sons has not previously filed a petition for
17 revocation under this subparagraph, the
18 petition period begins 2 years after the
19 date on which the designation was made;
20 or

21 “(II) if the designated group, club, or-
22 ganization, or association of 5 or more per-
23 sons has previously filed a petition for rev-
24 ocation under this subparagraph, the peti-
25 tion period begins 2 years after the date of

1 the determination made under clause (iv)
2 on that petition.

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

9 “(iv) DETERMINATION.—

10 “(I) IN GENERAL.—Not later than
11 180 days after receiving a petition for rev-
12 ocation submitted under this subpara-
13 graph, the Secretary shall make a deter-
14 mination as to such revocation.

15 “(II) CLASSIFIED INFORMATION.—
16 The Secretary may consider classified in-
17 formation in making a determination in re-
18 sponse to a petition for revocation. Classi-
19 fied information shall not be subject to dis-
20 closure for such time as it remains classi-
21 fied, except that such information may be
22 disclosed to a court ex parte and in camera
23 for purposes of judicial review under sub-
24 section (c).

1 “(III) PUBLICATION OF DETERMINA-
2 TION.—A determination made by the Sec-
3 retary under this clause shall be published
4 in the Federal Register.

5 “(IV) PROCEDURES.—Any revocation
6 by the Secretary shall be made in accord-
7 ance with paragraph (6).

8 “(C) OTHER REVIEW OF DESIGNATION.—

9 “(i) IN GENERAL.—If in a 5-year period no
10 review has taken place under subparagraph (B),
11 the Secretary shall review the designation of the
12 criminal gang in order to determine whether
13 such designation should be revoked pursuant to
14 paragraph (6).

15 “(ii) PROCEDURES.—If a review does not
16 take place pursuant to subparagraph (B) in re-
17 sponse to a petition for revocation that is filed
18 in accordance with that subparagraph, then the
19 review shall be conducted pursuant to proce-
20 dures established by the Secretary. The results
21 of such review and the applicable procedures
22 shall not be reviewable in any court.

23 “(iii) PUBLICATION OF RESULTS OF RE-
24 VIEW.—The Secretary shall publish any deter-

1 mination made pursuant to this subparagraph
2 in the Federal Register.

3 “(5) REVOCATION BY ACT OF CONGRESS.—The Con-
4 gress, by an Act of Congress, may block or revoke a des-
5 ignation made under paragraph (1).

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

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

14 “(i) the group, club, organization, or asso-
15 ciation of 5 or more persons that has been des-
16 ignated as a criminal gang is no longer de-
17 scribed in section 101(a)(53); or

18 “(ii) the national security or the law en-
19 forcement interests of the United States war-
20 rants a revocation.

21 “(B) PROCEDURE.—The procedural require-
22 ments of paragraphs (2) and (3) shall apply to a
23 revocation under this paragraph. Any revocation
24 shall take effect on the date specified in the revoca-

1 tion or upon publication in the Federal Register if
2 no effective date is specified.

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

7 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
8 ING.—If a designation under this subsection has become
9 effective under paragraph (2) an alien in a removal pro-
10 ceeding shall not be permitted to raise any question con-
11 cerning the validity of the issuance of such designation
12 as a defense or an objection.

13 “(b) AMENDMENTS TO A DESIGNATION.—

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

22 “(2) PROCEDURE.—Amendments made to a
23 designation in accordance with paragraph (1) shall
24 be effective upon publication in the Federal Register.
25 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-

1 section (a) shall also apply to an amended designa-
2 tion.

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

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

15 “(c) JUDICIAL REVIEW OF DESIGNATION.—

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

24 “(2) BASIS OF REVIEW.—Review under this
25 subsection shall be based solely upon the administra-

1 tive record, except that the Government may submit,
2 for ex parte and in camera review, classified infor-
3 mation used in making the designation, amended
4 designation, or determination in response to a peti-
5 tion for revocation.

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

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

13 “(B) contrary to constitutional right,
14 power, privilege, or immunity;

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

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

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

24 “(4) JUDICIAL REVIEW INVOKED.—The pend-
25 ency of an action for judicial review of a designation,

1 amended designation, or determination in response
 2 to a petition for revocation shall not affect the appli-
 3 cation of this section, unless the court issues a final
 4 order setting aside the designation, amended des-
 5 ignation, or determination in response to a petition
 6 for revocation.

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

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

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

14 “(3) the term ‘relevant committees’ means the
 15 Committees on the Judiciary of the Senate and of
 16 the House of Representatives; and

17 “(4) the term ‘Secretary’ means the Secretary
 18 of Homeland Security, in consultation with the At-
 19 torney General.”.

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

“Sec. 220. Designation.”.

23 (d) MANDATORY DETENTION OF CRIMINAL GANG
 24 MEMBERS.—

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

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

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

8 (C) by inserting after subparagraph (D)
9 the following:

10 “(E) is inadmissible under section
11 212(a)(2)(J) or deportable under section
12 217(a)(2)(G),”.

13 (2) ANNUAL REPORT.—Not later than March 1
14 of each year (beginning 1 year after the date of the
15 enactment of this Act), the Secretary of Homeland
16 Security, after consultation with the appropriate
17 Federal agencies, shall submit a report to the Com-
18 mittees on the Judiciary of the House of Represent-
19 atives and of the Senate on the number of aliens de-
20 tained under the amendments made by paragraph
21 (1).

22 (e) ASYLUM CLAIMS BASED ON GANG AFFILI-
23 ATION.—

24 (1) INAPPLICABILITY OF RESTRICTION ON RE-
25 MOVAL TO CERTAIN COUNTRIES.—Section

1 241(b)(3)(B) of the Immigration and Nationality
2 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
3 matter preceding clause (i), by inserting “who is de-
4 scribed in section 212(a)(2)(J)(i) or section
5 237(a)(2)(G)(i) or who is” after “to an alien”.

6 (2) INELIGIBILITY FOR ASYLUM.—Section
7 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
8 (as amended by section 201 of this Act) is further
9 amended—

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

12 (B) by redesignating clause (vi) as clause
13 (vii); and

14 (C) by inserting after clause (v) the fol-
15 lowing:

16 “(vi) the alien is described in section
17 212(a)(2)(J)(i) or section 237(a)(2)(G)(i);
18 or”.

19 (f) TEMPORARY PROTECTED STATUS.—Section 244
20 of such Act (8 U.S.C. 1254a) is amended—

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

24 (2) in subparagraph (c)(2)(B)—

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

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

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

6 “(iii) the alien is, or at any time has
7 been, described in section 212(a)(2)(J) or
8 section 237(a)(2)(G).”; and

9 (3) in subsection (d)—

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

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

16 (g) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
17 101(a)(27)(J)(iii) of the Immigration and Nationality Act
18 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

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

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

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

23 “(III) no alien who is, or at any
24 time has been, described in section
25 212(a)(2)(J) or section 237(a)(2)(G)

1 shall be eligible for any immigration
 2 benefit under this subparagraph;”.

3 (h) PAROLE.—An alien described in section
 4 212(a)(2)(J) of the Immigration and Nationality Act, as
 5 added by subsection (b), shall not be eligible for parole
 6 under section 212(d)(5)(A) of such Act unless—

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

10 (2) the alien’s presence in the United States is
 11 required by the Government with respect to such as-
 12 sistance.

13 **SEC. 4. CRIMINAL GANG MEMBERS AND SUPPORTERS DIS-**
 14 **QUALIFIED FROM GOOD MORAL CHARACTER**
 15 **PROVISION.**

16 Section 101(f) of the Immigration and Nationality
 17 Act (8 U.S.C. 1101(f)) is amended—

18 (1) in paragraph (8), by striking “or” at the
 19 end;

20 (2) in paragraph (9), by striking the period at
 21 the end and inserting “; or”;

22 (3) by inserting after paragraph (9), the fol-
 23 lowing:

24 “(10) one whom the Secretary of Homeland Se-
 25 curity or the Attorney General determines, in the

1 unreviewable discretion of the Secretary of Home-
2 land Security or the Attorney General, to be an alien
3 who—

4 “(A) is or has ever been a member, asso-
5 ciate or affiliate of, or who has ever provided
6 material support to, a criminal gang;

7 “(B) is or has ever been a member, asso-
8 ciate or affiliate of, or who has ever provided
9 material support to, a criminal street gang (as
10 defined in section 520 of title 18, United States
11 Code); or

12 “(C) has been convicted of or has admitted
13 committing the essential elements of the fol-
14 lowing offenses—

15 “(i) a felony drug offense (as defined
16 in section 102 of the Controlled Sub-
17 stances Act (21 U.S.C. 802)); or

18 “(ii) has engaged in conduct punish-
19 able under section 274, 277, or 278; or

20 “(iii) committed a crime of violence
21 (as defined in section 16 of title 18, United
22 States Code); or

23 “(iv) committed a crime involving ob-
24 struction of justice, tampering with or re-

1 taliating against a witness, victim, or in-
2 formant, or burglary; or

3 “(v) engaged in conduct punishable
4 under section 1028 or 1029, and sections
5 1541 through 1546 of title 18, United
6 States Code; or

7 “(vi) engaged in conduct punishable
8 under sections 1581 through 1594 of title
9 18, United States Code; or

10 “(vii) engaged in conduct punishable
11 under sections 1951, 1952, 1956, and
12 1957 of title 18, United States Code; or

13 “(viii) engaged in conduct punishable
14 under sections 2312 through 2315 of title
15 18, United States Code; or

16 “(ix) attempted to engage in an of-
17 fense described in paragraphs (1) through
18 (8) above, or engaged in conduct punish-
19 able under sections 2 through 4, and sec-
20 tions 371 through 373 of title 18, United
21 States Code, in furtherance of such an of-
22 fense.”; and

23 (4) by adding at the end, at the end of the mat-
24 ter following paragraph (10) (as inserted in this sec-
25 tion), the following: “An alien shall be deemed to

1 have ‘admitted the essential elements of an offense’
2 upon an oral or written statement to such effect, or
3 upon a conviction or formal finding by a competent
4 Federal, State or local court, tribunal or military
5 proceeding that said person has engaged in unlawful
6 conduct whose essential elements include those that
7 would be required for conviction of a disqualifying
8 offense. A determination by the Secretary of Home-
9 land Security or Attorney General that an alien does
10 not exhibit good moral character based on gang
11 membership, association, affiliation, or provision of
12 material support, may be based upon any relevant
13 information or evidence, including classified, law en-
14 forcement sensitive, or national security information
15 and shall be binding upon any court regardless of
16 the applicable standard of review.”.

17 **SEC. 5. PROHIBITION AGAINST FILING.**

18 (a) IN GENERAL.—No person who—

19 (1) is or has ever been a member, associate or
20 affiliate of, or who has ever provided material sup-
21 port to, a criminal gang (as defined in section 101
22 of the Immigration and Nationality Act (8 U.S.C.
23 1101));

24 (2) is or has ever been a member, associate or
25 affiliate of, or who has ever provided material sup-

1 port to, a criminal street gang (as defined in section
2 520 of title 18, United States Code); or

3 (3) has been convicted of or has admitted the
4 essential elements of an offense as specified in sub-
5 section (b),

6 shall be permitted to file an application or petition, or sub-
7 mit an affidavit of support, on behalf of an alien under
8 any provision of the immigration laws, nor shall such per-
9 son be permitted to assume custodial care for an unaccom-
10 panied alien minor.

11 (b) DISQUALIFYING OFFENSES.—Offenses which dis-
12 qualify a person under subsection (a) are—

13 (1) a felony drug offense (as defined in section
14 102 of the Controlled Substances Act (21 U.S.C.
15 802));

16 (2) conduct punishable under section 274, 277,
17 or 278 of the Immigration and Nationality Act (8
18 U.S.C. 1324; 1327; 1328);

19 (3) a crime of violence (as defined in section 16
20 of title 18, United States Code);

21 (4) a crime involving obstruction of justice,
22 tampering with or retaliating against a witness, vic-
23 tim, or informant, or burglary;

1 (5) conduct punishable under section 1028 or
2 1029, and sections 1541 through 1546 of title 18,
3 United States Code;

4 (6) conduct punishable under sections 1581
5 through 1594 of title 18, United States Code;

6 (7) sections 1951, 1952, 1956, and 1957 of
7 title 18, United States Code;

8 (8) sections 2312 through 2315 of title 18 of
9 the United States Code; or

10 (9) any attempt to engage in an offense de-
11 scribed in paragraphs (1) through (8) above, or con-
12 duct punishable under sections 2 through 4, and sec-
13 tions 371 through 373 of title 18, United States
14 Code in furtherance of such an offense.

15 (c) ADMISSION OF ESSENTIAL ELEMENTS OF AN OF-
16 FENSE.—A person shall be deemed to have admitted the
17 essential elements of an offense within the meaning of sub-
18 section (a)(3) upon an oral or written statement to such
19 effect, or upon a conviction or formal finding by a com-
20 petent Federal, State or local court, tribunal or military
21 proceeding that said person has engaged in unlawful con-
22 duct whose essential elements include those that would be
23 required for conviction of a disqualifying offense as de-
24 scribed in subsection (b).

1 **SEC. 6. DENATURALIZATION OF CRIMINAL GANG MEMBERS**
2 **AND SUPPORTERS.**

3 Section 340 of the Immigration and Nationality Act
4 (8 U.S.C. 1451) is amended by striking subsection (c) and
5 inserting the following language:

6 “(c) MEMBERSHIP IN CERTAIN ORGANIZATIONS;
7 PRIMA FACIE EVIDENCE.—

8 “(1) IN GENERAL.—If a person who shall have
9 been naturalized after December 24, 1952, shall
10 within 10 years following such naturalization become
11 a member of or affiliated with any organization,
12 membership in or affiliation with which at the time
13 of naturalization would have precluded such person
14 from naturalization under the provisions of section
15 313, it shall be considered prima facie evidence that
16 such person was not attached to the principles of the
17 Constitution of the United States and was not well
18 disposed to the good order and happiness of the
19 United States at the time of naturalization, and, in
20 the absence of countervailing evidence, it shall be
21 sufficient in the proper proceeding to authorize the
22 revocation and setting aside of the order admitting
23 such person to citizenship and the cancellation of the
24 certificate of naturalization as having been obtained
25 by concealment of a material fact or by willful mis-
26 representation, and such revocation and setting

1 aside of the order admitting such person to citizen-
2 ship and such canceling of certificate of naturaliza-
3 tion shall be effective as of the original date of the
4 order and certificate, respectively.

5 “(2) ORGANIZATION, MEMBERSHIP IN OR AF-
6 FILIATION WITH WHICH AT THE TIME OF NATU-
7 RALIZATION WOULD HAVE PRECLUDED SUCH PER-
8 SON FROM NATURALIZATION.—The phrase ‘any or-
9 ganization, membership in or affiliation with which
10 at the time of naturalization would have precluded
11 such person from naturalization’ shall be deemed to
12 include an alien who—

13 “(A) is or has ever been a member, asso-
14 ciate or affiliate of, or who has ever provided
15 material support to, a criminal gang;

16 “(B) is or has ever been a member, asso-
17 ciate or affiliate of, or who has ever provided
18 material support to, a criminal street gang as
19 defined in section 520 of title 18 of the United
20 States Code; or

21 “(C) has been convicted of or has admitted
22 committing the essential elements of the fol-
23 lowing offenses—

1 “(i) a felony drug offense (as defined
2 in section 102 of the Controlled Sub-
3 stances Act (21 U.S.C. 802));

4 “(ii) has engaged in conduct punish-
5 able under section 274, 277, or 278;

6 “(iii) committed a crime of violence
7 (as defined in section 16 of title 18, United
8 States Code);

9 “(iv) committed a crime involving ob-
10 struction of justice, tampering with or re-
11 taliating against a witness, victim, or in-
12 formant, or burglary;

13 “(v) engaged in conduct punishable
14 under section 1028 or 1029, and sections
15 1541 through 1546 of title 18, United
16 States Code;

17 “(vi) engaged in conduct punishable
18 under sections 1581 through 1594 of title
19 18, United States Code; or engaged in con-
20 duct punishable under sections 1951,
21 1952, 1956, and 1957 of title 18, United
22 States Code;

23 “(vii) engaged in conduct punishable
24 under sections 2312 through 2315 of title
25 18, United States Code; or

1 “(viii) attempted to engage in an of-
2 fense described in clauses (i) through (viii)
3 above, or engaged in conduct punishable
4 under sections 2 through 4, and sections
5 371 through 373 of title 18, United States
6 Code in furtherance of such an offense.

7 “(3) DEEMED TO HAVE ADMITTED.—An alien
8 shall be deemed to have admitted the essential ele-
9 ments of an offense within the meaning of para-
10 graph (2)(C) upon an oral or written statement to
11 such effect, or upon a conviction or formal finding
12 by a competent Federal, State or local court, tri-
13 bunal or military proceeding that said person has
14 engaged in unlawful conduct whose essential ele-
15 ments include those that would be required for con-
16 viction of a disqualifying offense.”.

17 **SEC. 7. EFFECTIVE DATE AND APPLICATION.**

18 The amendments made by this Act shall take effect
19 on the date of the enactment of this Act, shall apply to
20 any act that occurred before, on, or after such date, and
21 shall apply to any application for naturalization or any
22 other benefit or relief, or any other case or matter under
23 the immigration laws, pending on, or filed after, such date.

