

114TH CONGRESS  
2D SESSION

# H. R. 4856

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2016

Mr. GOSAR (for himself, Mr. FORBES, Mr. BROOKS of Alabama, Mr. CALVERT, Mr. DESJARLAIS, Mr. DUNCAN of South Carolina, Mr. DUNCAN of Tennessee, Mr. FARENTHOLD, Mr. BABIN, Mr. FRANKS of Arizona, Mr. GRIFFITH, Mr. JODY B. HICE of Georgia, Mr. JONES, Mr. KING of Iowa, Mr. OLSON, Mr. POE of Texas, Mr. ROGERS of Alabama, Mr. SCHWEIKERT, Mr. SESSIONS, Mr. WEBER of Texas, and Mr. HUELSKAMP) introduced the following bill; which was referred to the Committee on the Judiciary

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## 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:

1           “(53)(A) The term ‘criminal gang’ means an  
2 ongoing group, club, organization, or association of  
3 5 or more persons—

4           “(i)(I) that has as one of its primary pur-  
5 poses the commission of 1 or more of the crimi-  
6 nal offenses described in subparagraph (B); and

7           “(II) the members of which engage, or  
8 have engaged within the past 5 years, in a con-  
9 tinuing series of offenses described in subpara-  
10 graph (B); or

11           “(ii) that has been designated as a crimi-  
12 nal gang under section 220 by the Secretary of  
13 Homeland Security, in consultation with the At-  
14 torney General, or the Secretary of State.

15           “(B) The offenses described in this subpara-  
16 graph, whether in violation of Federal or State law  
17 or foreign law and regardless of whether the offenses  
18 occurred before, on, or after the date of the enact-  
19 ment of this paragraph, are the following:

20           “(i) A ‘felony drug offense’ (as defined in  
21 section 102 of the Controlled Substances Act  
22 (21 U.S.C. 802)).

23           “(ii) An offense under section 274 (relat-  
24 ing to bringing in and harboring certain aliens),  
25 section 277 (relating to aiding or assisting cer-

1           tain aliens to enter the United States), or sec-  
2           tion 278 (relating to importation of alien for  
3           immoral purpose).

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

6           “(iv) A crime involving obstruction of jus-  
7           tice, tampering with or retaliating against a  
8           witness, victim, or informant, or burglary.

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

1           “(vi) A conspiracy to commit an offense  
2           described in clauses (i) through (v).

3           “(C) Notwithstanding any other provision of  
4           law (including any effective date), the term ‘criminal  
5           gang’ applies regardless of whether the conduct oc-  
6           curred before, on, or after the date of the enactment  
7           of this paragraph.”.

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

11                   “(J) ALIENS ASSOCIATED WITH CRIMINAL  
12                   GANGS.—Any alien is inadmissible if a consular  
13                   officer, the Secretary of Homeland Security, or  
14                   the Attorney General knows or has reason to  
15                   believe that the alien—

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

18                           “(ii) has participated in the activities  
19                           of a criminal gang knowing or having rea-  
20                           son to know that such activities will pro-  
21                           mote, further, aid, or support the illegal  
22                           activity of the criminal gang.”.

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

1           “(G) ALIENS ASSOCIATED WITH CRIMINAL  
2 GANGS.—Any alien is deportable if the Sec-  
3 retary of Homeland Security or the Attorney  
4 General knows or has reason to believe that the  
5 alien—

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

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

13 (d) DESIGNATION.—

14           (1) IN GENERAL.—Chapter 2 of title II of the  
15 Immigration and Nationality Act (8 U.S.C. 1181 et  
16 seq.) is amended by inserting after section 219 the  
17 following:

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

19           “(a) IN GENERAL.—The Secretary of Homeland Se-  
20 curity, in consultation with the Attorney General, or the  
21 Secretary of State may designate a group or association  
22 as a criminal gang if their conduct is described in section  
23 101(a)(53) or if the group or association conduct poses  
24 a significant risk that threatens the security and the pub-  
25 lic safety of nationals of the United States or the national

1 security, homeland security, foreign policy, or economy of  
2 the United States.

3 “(b) EFFECTIVE DATE.—A designation made under  
4 subsection (a) shall remain in effect until the designation  
5 is revoked after consultation between the Secretary of  
6 Homeland Security, the Attorney General, and the Sec-  
7 retary of State or is terminated in accordance with Fed-  
8 eral law.”.

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

“220. Designation of criminal gangs.”.

13 (e) MANDATORY DETENTION OF CRIMINAL GANG  
14 MEMBERS.—

15 (1) IN GENERAL.—Section 236(c)(1)(D) of the  
16 Immigration and Nationality Act (8 U.S.C.  
17 1226(c)(1)(D)) is amended—

18 (A) by striking “section 212(a)(3)(B)” and  
19 inserting “paragraph (2)(J) or (3)(B) of section  
20 212(a)”;

21 (B) by striking “237(a)(4)(B),” and in-  
22 serting “paragraph (2)(G) or (4)(B) of section  
23 237(a),”.

24 (2) ANNUAL REPORT.—Not later than March 1  
25 of each year (beginning 1 year after the date of the

1 enactment of this Act), the Secretary of Homeland  
2 Security, after consultation with the appropriate  
3 Federal agencies, shall submit a report to the Com-  
4 mittee on the Judiciary of the Senate and the Com-  
5 mittee on the Judiciary of the House of Representa-  
6 tives on the number of aliens detained under the  
7 amendments made by paragraph (1).

8 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-  
9 ATION.—

10 (1) INAPPLICABILITY OF RESTRICTION ON RE-  
11 MOVAL TO CERTAIN COUNTRIES.—Section  
12 241(b)(3)(B) of the Immigration and Nationality  
13 Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the  
14 matter preceding clause (i), by inserting “who is de-  
15 scribed in section 212(a)(2)(J)(i) or section  
16 237(a)(2)(G)(i) or who is” after “to an alien”.

17 (2) INELIGIBILITY FOR ASYLUM.—Section  
18 208(b)(2)(A) of the Immigration and Nationality  
19 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

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

22 (B) by redesignating clause (vi) as clause  
23 (vii); and

24 (C) by inserting after clause (v) the fol-  
25 lowing:

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

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

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

11                  (2) in subparagraph (e)(2)(B)—

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

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

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

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

19                  (3) in subsection (d)—

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

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



1 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section  
2 101(a)(27)(J)(iii) of the Immigration and Nationality Act  
3 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

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

5 (2) in subclause (II), by inserting “and” at the  
6 end; and

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

8 “(III) no alien who is a member  
9 of a criminal gang shall be eligible for  
10 any immigration benefit under this  
11 subparagraph;”.

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

16 (j) PAROLE.—An alien described in section  
17 212(a)(2)(J) of the Immigration and Nationality Act, as  
18 added by subsection (b), shall not be eligible for parole  
19 under section 212(d)(5)(A) of such Act unless—

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

23 (2) the alien’s presence in the United States is  
24 required by the Government with respect to such as-  
25 sistance.

1 (k) EFFECTIVE DATE.—The amendments made by  
2 this section—

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

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

7 **SEC. 2. MANDATORY EXPEDITED REMOVAL OF DANGEROUS**  
8 **CRIMINALS, TERRORISTS, AND GANG MEM-**  
9 **BERS.**

10 (a) IN GENERAL.—Notwithstanding any other provi-  
11 sion of law, an immigration officer who finds an alien de-  
12 scribed in subsection (b) at a land border or port of entry  
13 of the United States and determines that such alien is in-  
14 admissible under the Immigration and Nationality Act (8  
15 U.S.C. 1101 et seq.) shall treat such alien in accordance  
16 with section 235 of the Immigration and Nationality Act  
17 (8 U.S.C. 1225).

18 (b) THREATS TO PUBLIC SAFETY.—An alien de-  
19 scribed in this subsection is an alien who the Secretary  
20 of Homeland Security determines, or has reason to be-  
21 lieve—

22 (1) has been convicted of any offense carrying  
23 a maximum term of imprisonment of more than 180  
24 days;

1           (2) has been convicted of an offense which in-  
2       involved—

3           (A) domestic violence (as defined in section  
4       40002(a) of the Violence Against Women Act of  
5       1994 (42 U.S.C. 13925(a));

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

9           (C) assault resulting in bodily injury (as  
10       defined in section 2266 of title 18, United  
11       States Code);

12          (D) the violation of a protection order (as  
13       defined in section 2266 of title 18, United  
14       States Code);

15          (E) driving while intoxicated (as defined in  
16       section 164 of title 23, United States Code); or

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

23       (3) has been convicted of more than 1 criminal  
24       offense (other than minor traffic offenses);

1           (4) has engaged in, is engaged in, or is likely  
2           to engage after entry in any terrorist activity (as de-  
3           fined in section 212(a)(3)(B)(iii) of the Immigration  
4           and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii)),  
5           or intends to participate or has participated in the  
6           activities of a foreign terrorist organization (as des-  
7           ignated under section 219 of the Immigration and  
8           Nationality Act (8 U.S.C. 1189));

9           (5) is or was a member of a criminal street  
10          gang (as defined in paragraph (53) of section 101(a)  
11          of the Immigration and Nationality Act (8 U.S.C.  
12          1101(a)), as added by section 1101(a)); or

13          (6) has entered the United States more than 1  
14          time in violation of section 275(a) of the Immigra-  
15          tion and Nationality Act (8 U.S.C. 1325(a)), know-  
16          ing that the entry was unlawful.

○