

116TH CONGRESS  
1ST SESSION

# H. R. 146

To amend the Immigration and Nationality Act to facilitate the removal of aliens identified in the terrorist screening database, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. DUNCAN (for himself, Mr. GOSAR, Mr. NORMAN, Mr. KING of Iowa, and Mr. MEADOWS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to facilitate the removal of aliens identified in the terrorist screening database, 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 “Terrorist Deportation  
5 Act of 2019”.

6 **SEC. 2. INADMISSIBILITY OF ALIENS IDENTIFIED IN TER-**  
7 **RORIST SCREENING DATABASE.**

8 Section 212(a)(3)(B)(i) of the Immigration and Na-  
9 tionality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

1 (1) in subclause (VIII), by striking “or” at the  
2 end;

3 (2) by redesignating subclause (IX) as sub-  
4 clause (X); and

5 (3) by inserting after subclause (VIII) the fol-  
6 lowing:

7 “(IX) is identified in the terrorist  
8 screening database (as such term is  
9 defined in section 2101(10) of the  
10 Homeland Security Act of 2002 (6  
11 U.S.C. 621(10))), except for an alien  
12 lawfully admitted for permanent resi-  
13 dence (as defined in section  
14 101(a)(20)); or”.

15 **SEC. 3. DEPORTABILITY OF ALIENS IDENTIFIED IN TER-**  
16 **RORIST SCREENING DATABASE.**

17 Section 237(a)(4)(B) of the Immigration and Nation-  
18 ality Act (8 U.S.C. 1227(a)(4)(B)) is amended by insert-  
19 ing before the period at the end the following “, except  
20 that an alien lawfully admitted for permanent residence  
21 (as defined in section 101(a)(20)) is not deportable for  
22 being described in subparagraph (B)(i)(IX) of section  
23 212(a)(3)”.

1 **SEC. 4. WAIVERS OF GROUND OF INADMISSIBILITY FOR**  
2 **ALIENS IDENTIFIED IN TERRORIST SCREEN-**  
3 **ING DATABASE.**

4 Section 212(d)(3) of the Immigration and Nationality  
5 Act (8 U.S.C. 1182(d)(3)) is amended—

6 (1) in each of clauses (i) and (ii) of subpara-  
7 graph (A), by inserting “and other than paragraph  
8 (3)(B)(i)(IX) of such subsection except as provided  
9 in subparagraph (C)” after “of such subsection”;

10 (2) in subparagraph (B)(i), by inserting “or  
11 who is within the scope of subsection  
12 (a)(3)(B)(i)(IX) except as provided in subparagraph  
13 (C),” after “(a)(3)(B)(i)(II),”; and

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

15 “(C)(i) Subject to clause (ii) and only on an indi-  
16 vidual case-by-case basis, if the Secretary of Homeland Se-  
17 curity determines in the Secretary’s unreviewable discre-  
18 tion that it is in the national security interests of the  
19 United States, an alien—

20 “(I) may be granted a nonimmigrant visa and  
21 be admitted into the United States temporarily as a  
22 nonimmigrant under subparagraph (A)(i);

23 “(II) may be admitted into the United States  
24 temporarily as a nonimmigrant under subparagraph  
25 (A)(ii); and

1           “(III) shall not be subject to subsection  
2           (a)(3)(B)(i)(IX).

3           “(ii) The Secretary of Homeland Security may grant  
4 a waiver under clause (i) with respect to an alien only with  
5 the unanimous concurrence of the Attorney General, the  
6 Director of the Federal Bureau of Investigation, the Di-  
7 rector of National Intelligence, and the Secretary of  
8 State.”.

9   **SEC. 5. UNAVAILABILITY OF CERTAIN IMMIGRATION BENE-**  
10                           **FITS TO ALIENS IDENTIFIED IN TERRORIST**  
11                           **SCREENING DATABASE.**

12           (a) ASYLUM.—Section 208(b)(2)(A)(v) of the Immi-  
13 gration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v))  
14 is amended by striking “or (VI)” and inserting “(VI), or  
15 (IX)”.

16           (b) WITHHOLDING OF REMOVAL.—Section  
17 241(b)(3)(B) of the Immigration and Nationality Act (8  
18 U.S.C. 1231(b)(3)(B)) is amended, in the matter pre-  
19 ceding clause (i), by inserting “inadmissible under section  
20 212(a)(3)(B)(i)(IX) or deportable under section  
21 237(a)(4)(B) as a consequence of being described in sec-  
22 tion 212(a)(3)(B)(i)(IX), or” after “does not apply to an  
23 alien”.

24           (c) CANCELLATION OF REMOVAL.—

1           (1) CANCELLATION OF REMOVAL FOR CERTAIN  
2 PERMANENT RESIDENTS.—Section 240A(a) of the  
3 Immigration and Nationality Act (8 U.S.C.  
4 1229b(a)) is amended, in the matter preceding para-  
5 graph (1), by striking “inadmissible or deportable”  
6 and inserting “inadmissible (except an alien who is  
7 inadmissible under section 212(a)(3)(B)(i)(IX)) or  
8 deportable (except an alien who is deportable under  
9 section 237(a)(4)(B) as a consequence of being de-  
10 scribed in section 212(a)(3)(B)(i)(IX))”.

11           (2) CANCELLATION OF REMOVAL FOR CERTAIN  
12 NONPERMANENT RESIDENTS.—Section 240A(b)(1)  
13 of the Immigration and Nationality Act (8 U.S.C.  
14 1229b(b)(1)) is amended, in the matter preceding  
15 subparagraph (A), by striking “inadmissible or de-  
16 portable” and inserting “inadmissible (except an  
17 alien who is inadmissible under section  
18 212(a)(3)(B)(i)(IX)) or deportable (except an alien  
19 who is deportable under section 237(a)(4)(B) as a  
20 consequence of being described in section  
21 212(a)(3)(B)(i)(IX))”.

22           (d) VOLUNTARY DEPARTURE.—Section 240B(c) of  
23 the Immigration and Nationality Act (8 U.S.C. 1229c(e))  
24 is amended to read as follows:

1       “(c) ALIENS INELIGIBLE.—The Secretary of Home-  
2 land Security shall not permit an alien to depart volun-  
3 tarily under this section if the alien—

4               “(1) was previously permitted to so depart after  
5 having been found inadmissible under section  
6 212(a)(6)(A); or

7               “(2) is inadmissible under section  
8 212(a)(3)(B)(i)(IX) or deportable under section  
9 237(a)(4)(B) as a consequence of being described in  
10 section 212(a)(3)(B)(i)(IX).”.

11       (e) ADJUSTMENT OF STATUS.—Section 245 of the  
12 Immigration and Nationality Act (8 U.S.C. 1255) is  
13 amended—

14               (1) in subsection (c), by striking item (6) and  
15 inserting “(6) an alien who is inadmissible under  
16 section 212(a)(3)(B)(i)(IX) or deportable under sec-  
17 tion 237(a)(4)(B);”; and

18               (2) in subsection (m)(1), in the matter pre-  
19 ceding subparagraph (A), by striking  
20 “212(a)(3)(E),” and inserting “subparagraph  
21 (B)(i)(IX) or (E) of section 212(a)(3) or section  
22 237(a)(4)(B) as a consequence of being described in  
23 section 212(a)(3)(B)(i)(IX),”.

24       (f) REGISTRY.—Section 249 of the Immigration and  
25 Nationality Act (8 U.S.C. 1259) is amended—

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

4           (2) by striking “inadmissible under section  
5 212(a)(3)(E) or under” and inserting “inadmissible  
6 under section 212(a)(3)(B)(i)(IX) or (E) or deport-  
7 able from the United States under section  
8 237(a)(4)(B) as a consequence of being described in  
9 section 212(a)(3)(B)(i)(IX) or under”.

10       (g) CONVENTION AGAINST TORTURE.—Not later  
11 than 120 days after the date of the enactment of this Act,  
12 the Secretary of Homeland Security shall revise the regu-  
13 lations found at sections 208.16 through 208.18 of title  
14 8, Code of Federal Regulations, implementing the United  
15 Nations Convention Against Torture and Other Forms of  
16 Cruel, Inhuman or Degrading Treatment or Punishment,  
17 done at New York on December 10, 1984. The revised  
18 regulations—

19           (1) shall exclude from the protection of such  
20 regulations aliens described in section  
21 212(a)(3)(B)(i)(IX) of the Immigration and Nation-  
22 ality Act (8 U.S.C. 1182(a)(3)(B)(i)(IX)) and make  
23 such aliens ineligible for withholding or deferral of  
24 removal under the immigration laws (as defined in

1 section 101(a)(17) of the Immigration and Nation-  
2 ality Act (8 U.S.C. 1101(a)(17)); and

3 (2) shall ensure that the revised regulations op-  
4 erate so as to allow for the reopening and readjudi-  
5 cation of determinations made under the regulations  
6 before the effective date of the revision and apply to  
7 acts and conditions constituting grounds of ineligi-  
8 bility for the protection of such regulations (includ-  
9 ing ineligibility for withholding or deferral of re-  
10 moval) as revised, regardless of when such acts or  
11 conditions occurred.

12 **SEC. 6. EXPEDITED REMOVAL OF ALIENS INADMISSIBLE OR**  
13 **DEPORTABLE ON SECURITY AND RELATED**  
14 **GROUND.**

15 Section 238 of the Immigration and Nationality Act  
16 (8 U.S.C. 1228) is amended—

17 (1) in the section heading, by adding at the end  
18 the following: “OR INADMISSIBLE OR DEPORTABLE  
19 ON SECURITY OR RELATED GROUNDS”;

20 (2) by redesignating the subsections succeeding  
21 subsection (b) as subsections (d) and (e), respec-  
22 tively; and

23 (3) by inserting after subsection (b) the fol-  
24 lowing:



1           “(c) REMOVAL OF ALIENS WHO ARE NOT PERMA-  
2 NENT RESIDENTS AND WHO ARE INADMISSIBLE OR DE-  
3 PORTABLE ON SECURITY OR RELATED GROUNDS.—

4           “(1) IN GENERAL.—The Secretary of Homeland  
5 Security, in accordance with paragraph (3)—

6           “(A) notwithstanding section 240, in the  
7 case of every alien described in paragraph (2),  
8 shall determine the inadmissibility of such alien  
9 under section 212(a)(3)(B)(i)(IX) or the de-  
10 portability of such alien under section  
11 237(a)(4)(B) as a consequence of being de-  
12 scribed in section 212(a)(3)(B)(i)(IX) and issue  
13 an order of removal pursuant to the procedures  
14 set forth in this subsection to every such alien  
15 determined to be inadmissible under section  
16 212(a)(3)(B)(i)(IX) or deportable under section  
17 237(a)(4)(B) as a consequence of being de-  
18 scribed in section 212(a)(3)(B)(i)(IX); and

19           “(B) in the case of an alien described in  
20 paragraph (2) who is not issued an order under  
21 subparagraph (A), may determine the inadmis-  
22 sibility of such alien under section 212(a)(3)(B)  
23 (other than subparagraph (B)(i)(IX)) or the de-  
24 portability of such alien under section  
25 237(a)(4)(B) (other than as a consequence of

1 being described in section 212(a)(3)(B)(i)(IX))  
2 and issue an order of removal pursuant to the  
3 procedures set forth in this subsection or sec-  
4 tion 240.

5 “(2) ALIENS DESCRIBED.—An alien is de-  
6 scribed in this paragraph if—

7 “(A) the alien has not been granted a  
8 waiver under section 212(d)(3)(C); and

9 “(B) the alien—

10 “(i) was not lawfully admitted for per-  
11 manent residence at the time at which pro-  
12 ceedings under this subsection commenced;  
13 or

14 “(ii) had permanent resident status  
15 on a conditional basis (as described in sec-  
16 tion 216) at the time that proceedings  
17 under this subsection commenced.

18 “(3) EXPEDITED PROCEEDINGS.—Proceedings  
19 under this subsection shall be in accordance with  
20 such regulations as the Secretary of Homeland Secu-  
21 rity shall prescribe. The Secretary shall ensure  
22 that—

23 “(A) the alien is given reasonable notice of  
24 the charges and of the opportunity described in  
25 subparagraph (C);

1           “(B) the alien shall have the privilege of  
2 being represented (at no expense to the govern-  
3 ment) by such counsel, authorized to practice in  
4 such proceedings, as the alien shall choose;

5           “(C) the alien has a reasonable oppor-  
6 tunity to inspect the evidence and rebut the  
7 charges;

8           “(D) a determination is made for the  
9 record that the individual upon whom the notice  
10 for the proceeding under this section is served  
11 (either in person or by mail) is, in fact, the  
12 alien named in such notice;

13           “(E) a record is maintained for judicial re-  
14 view; and

15           “(F) the final order of removal is not adju-  
16 dicated by the same person who issues the  
17 charges.

18           “(4) JUDICIAL REVIEW.—The Secretary of  
19 Homeland Security may not execute any order de-  
20 scribed in paragraph (1) until 14 calendar days have  
21 passed from the date that such order was issued, un-  
22 less waived by the alien, in order that the alien has  
23 an opportunity to apply for judicial review under  
24 section 242.

1           “(5) INELIGIBILITY FOR DISCRETIONARY RE-  
2           LIEF FROM REMOVAL.—No alien adjudicated inad-  
3           missible or deportable in a proceeding under this  
4           subsection shall be eligible for any relief from re-  
5           moval that the Secretary of Homeland Security may  
6           grant in the Secretary’s discretion.”.

7   **SEC. 7. EFFECTIVE DATE; APPLICABILITY.**

8           This Act and the amendments made by this Act shall  
9           take effect on the date of the enactment of this Act and  
10          shall apply to all aliens identified in the terrorist screening  
11          database (as such term is defined in section 2101(10) of  
12          the Homeland Security Act of 2002 (6 U.S.C. 621(10)))  
13          on or after such date.

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