

116TH CONGRESS  
1ST SESSION

# H. R. 5417

To amend the Immigration and Nationality Act to add membership in a significant transnational criminal organization to the list of grounds of inadmissibility and to prohibit the provision of material support or resources to such organizations.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2019

Mr. GALLAGHER (for himself, Mr. BYRNE, Mr. WALKER, Mr. GAETZ, Mr. LAMBORN, Mr. GOODEN, Mr. GIBBS, Mr. WEBER of Texas, Mr. HILL of Arkansas, Mr. CLOUD, Mr. RIGGLEMAN, Mr. WRIGHT, Mr. RUTHERFORD, Mr. CRAWFORD, and Mr. BUDD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Rules, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Immigration and Nationality Act to add membership in a significant transnational criminal organization to the list of grounds of inadmissibility and to prohibit the provision of material support or resources to such organizations.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Significant  
3 Transnational Criminal Organization Designation Act”.

4 **SEC. 2. DESIGNATING, AS A SIGNIFICANT TRANSNATIONAL**  
5 **CRIMINAL ORGANIZATION, THE FOREIGN OR-**  
6 **GANIZATION RESPONSIBLE FOR MASS MUR-**  
7 **DER IN SONORA, MEXICO ON NOVEMBER 4,**  
8 **2019.**

9 (a) IN GENERAL.—Not later than 7 days after the  
10 conclusion of the investigation by the Federal Bureau of  
11 Investigation into the attack on, and killing of, 9 United  
12 States-Mexican dual citizens near Bavispe, Sonora, Mexico  
13 on November 4, 2019, the President shall submit a report  
14 to Congress that identifies the foreign organization associ-  
15 ated with the foreign persons who the President deter-  
16 mines are responsible for such attack.

17 (b) DESIGNATION AS A SIGNIFICANT  
18 TRANSNATIONAL CRIMINAL ORGANIZATION.—The report  
19 submitted pursuant to subsection (a) shall include an  
20 analysis of whether any organization or person that the  
21 President determines to be responsible for the attack ref-  
22 erenced in subsection (a) should be designated as a signifi-  
23 cant transnational criminal organization under section  
24 219A of the Immigration and Nationality Act, as added  
25 by section 3(b)(1).

1 **SEC. 3. INADMISSIBILITY OF MEMBERS OF SIGNIFICANT**  
2 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

3 (a) IN GENERAL.—Section 212(a)(2)(F) of the Im-  
4 migration and Nationality Act (8 U.S.C. 1182(a)(2)(F))  
5 is amended to read as follows:

6 “(F) MEMBERSHIP IN A SIGNIFICANT  
7 TRANSNATIONAL CRIMINAL ORGANIZATION.—

8 “(i) IN GENERAL.—Any alien who—

9 “(I) is a member of a significant  
10 transnational criminal organization; or

11 “(II) is the spouse or child of an  
12 alien described in subclause (I),

13 is inadmissible.

14 “(ii) EXCEPTION.—Clause (i)(II) shall  
15 not apply to a spouse or child—

16 “(I) who did not know, or should  
17 not reasonably have known, that his  
18 or her spouse or parent was a member  
19 of a significant transnational criminal  
20 organization; or

21 “(II) whom the consular officer  
22 or Attorney General has reasonable  
23 grounds to believe has renounced the  
24 significant transnational criminal or-  
25 ganization to which his or her spouse  
26 or parent belongs.”.

1 (b) DESIGNATION OF SIGNIFICANT TRANSNATIONAL  
2 CRIMINAL ORGANIZATIONS.—

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

6 **“SEC. 219A. DESIGNATION OF SIGNIFICANT**  
7 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

8 “(a) DESIGNATION.—

9 “(1) IN GENERAL.—The Attorney General is  
10 authorized to designate an organization as a signifi-  
11 cant transnational criminal organization in accord-  
12 ance with this subsection if the Attorney General,  
13 after consultation with the Secretary of State, the  
14 Secretary of the Treasury, and the Secretary of  
15 Homeland Security, determines that—

16 “(A) the organization is a foreign organi-  
17 zation;

18 “(B) the organization—

19 “(i) engages in criminal activity that  
20 involves or affects commerce in the United  
21 States; or

22 “(ii) retains the ability and intent to  
23 engage in such criminal activity; and

24 “(C) the criminal activity of the organiza-  
25 tion threatens the security of United States na-

1           tionals or the national security of the United  
2           States.

3           “(2) PROCEDURE.—

4                 “(A) NOTICE.—

5                         “(i) TO CONGRESSIONAL LEADERS.—

6                         Not later than 7 days before making a des-  
7                         ignation under this subsection, the Attor-  
8                         ney General shall, by classified communica-  
9                         tion, notify the Speaker and minority lead-  
10                        er of the House of Representatives, the  
11                        President pro tempore, majority leader,  
12                        and minority leader of the Senate, and the  
13                        members of the relevant committees of the  
14                        House of Representatives and the Senate,  
15                        in writing, of—

16                                 “(I) the intent to designate an  
17                                 organization under this subsection;  
18                                 and

19                                 “(II) the findings made under  
20                                 paragraph (1) with respect to that or-  
21                                 ganization, including the factual basis  
22                                 for such determination.

23                                 “(ii) PUBLICATION IN FEDERAL REG-  
24                                 ISTER.—The Attorney General shall pub-  
25                                 lish the designation in the Federal Register

1 not later than 7 days after providing the  
2 notification under clause (i).

3 “(B) EFFECT OF DESIGNATION.—A des-  
4 ignation under this subsection—

5 “(i) shall take effect upon publication  
6 under subparagraph (A)(ii), for purposes  
7 of section 212(a)(2)(F) of this Act and  
8 section 2339B of title 18, United States  
9 Code; and

10 “(ii) shall cease to have effect upon  
11 an Act of Congress disapproving such des-  
12 ignation.

13 “(C) FREEZING OF ASSETS.—Upon notifi-  
14 cation under paragraph (2)(A)(i), the Secretary  
15 of the Treasury may require United States fi-  
16 nancial institutions possessing or controlling  
17 any assets of any foreign organization included  
18 in the notification to block all financial trans-  
19 actions involving those assets until further di-  
20 rective from either the Secretary of the Treas-  
21 ury, Act of Congress, or order of court.

22 “(3) RECORD.—

23 “(A) IN GENERAL.—In making a designa-  
24 tion under this subsection, the Attorney Gen-  
25 eral shall create an administrative record.

1           “(B) CLASSIFIED INFORMATION.—The At-  
2           torney General may consider classified informa-  
3           tion in making a designation under this sub-  
4           section. Classified information shall not be sub-  
5           ject to disclosure for such time as it remains  
6           classified, except that such information may be  
7           disclosed to a court ex parte and in camera for  
8           purposes of judicial review under subsection (c).

9           “(4) PERIOD OF DESIGNATION.—

10           “(A) IN GENERAL.—A designation under  
11           this subsection shall be effective for all purposes  
12           until revoked under paragraph (5) or (6) or set  
13           aside pursuant to subsection (c).

14           “(B) REVIEW OF DESIGNATION UPON PE-  
15           TITION.—

16           “(i) IN GENERAL.—The Attorney  
17           General shall review the designation of a  
18           significant transnational criminal organiza-  
19           tion under the procedures set forth in  
20           clauses (iii) and (iv) if the designated orga-  
21           nization files a petition for revocation with-  
22           in the petition period described in clause  
23           (ii).

24           “(ii) PETITION PERIOD.—For pur-  
25           poses of clause (i)—

1           “(I) if the designated organiza-  
2           tion has not previously filed a petition  
3           for revocation under this subpara-  
4           graph, the petition period begins 2  
5           years after the date on which the des-  
6           ignation was made; or

7           “(II) if the designated organiza-  
8           tion has previously filed a petition for  
9           revocation under this subparagraph,  
10          the petition period begins 2 years  
11          after the date of the determination  
12          made under clause (iv) on that peti-  
13          tion.

14          “(iii) PROCEDURES.—Any significant  
15          transnational criminal organization that  
16          submits a petition for revocation under  
17          this subparagraph shall provide evidence in  
18          that petition that the relevant cir-  
19          cumstances described in paragraph (1) are  
20          sufficiently different from the cir-  
21          cumstances that were the basis for the des-  
22          ignation such that a revocation with re-  
23          spect to the organization is warranted.

24          “(iv) DETERMINATION.—

1           “(I) IN GENERAL.—Not later  
2 than 180 days after receiving a peti-  
3 tion for revocation submitted under  
4 this subparagraph, the Attorney Gen-  
5 eral shall make a determination re-  
6 garding such petition.

7           “(II) CLASSIFIED INFORMA-  
8 TION.—The Attorney General may  
9 consider classified information in  
10 making a determination in response to  
11 a petition for revocation. Classified in-  
12 formation shall not be subject to dis-  
13 closure for such time as it remains  
14 classified, except that such informa-  
15 tion may be disclosed to a court ex  
16 parte and in camera for purposes of  
17 judicial review under subsection (c).

18           “(III) PUBLICATION OF DETER-  
19 MINATION.—A determination made by  
20 the Attorney General under this  
21 clause shall be published in the Fed-  
22 eral Register.

23           “(IV) PROCEDURES.—Any rev-  
24 ocation by the Attorney General shall

1 be made in accordance with para-  
2 graph (6).

3 “(C) OTHER REVIEW OF DESIGNATION.—

4 “(i) IN GENERAL.—If no review is  
5 conducted pursuant to subparagraph (B)  
6 during the 5-year period beginning on the  
7 date on which a designation under this  
8 subsection takes effect, the Attorney Gen-  
9 eral shall review the designation of the sig-  
10 nificant transnational criminal organiza-  
11 tion in order to determine whether such  
12 designation should be revoked pursuant to  
13 paragraph (6).

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

23 “(iii) PUBLICATION OF RESULTS OF  
24 REVIEW.—The Attorney General shall pub-

1           lish any determination made pursuant to  
2           this subparagraph in the Federal Register.

3           “(5) REVOCATION BY ACT OF CONGRESS.—

4           “(A) IN GENERAL.—Except as provided by  
5           subparagraph (B), Congress, by an Act of Con-  
6           gress, may block or revoke a designation made  
7           under paragraph (1) through the congressional  
8           disapproval procedure set forth in section 802  
9           of title 5, United States Code.

10          “(B) REFERENCES TO RULE.—In applying  
11          the procedure, references to the term ‘rule’ in  
12          such section 802 shall be deemed to refer to a  
13          designation made under paragraph (1).

14          “(C) EFFECTIVE DATE.—A joint resolution  
15          to block or revoke a designation made under  
16          paragraph (1) shall not be subject to the proce-  
17          dure set forth in such section 802 unless it is  
18          introduced in either House of Congress during  
19          the 60-day period beginning on the date on  
20          which the Attorney General notifies Congress  
21          pursuant to paragraph (2)(A)(i).

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

24          “(A) IN GENERAL.—The Attorney Gen-  
25          eral—

1           “(i) may revoke a designation made  
2           under paragraph (1) at any time; and

3           “(ii) shall revoke a designation upon  
4           completion of a review conducted pursuant  
5           to subparagraphs (B) and (C) of para-  
6           graph (4) if the Attorney General deter-  
7           mines that—

8                       “(I) the circumstances that were  
9                       the basis for the designation have  
10                      changed in such a manner as to war-  
11                      rant revocation; or

12                     “(II) the national security of the  
13                     United States warrants a revocation.

14           “(B) PROCEDURE.—The procedural re-  
15           quirements under paragraphs (2) and (3) shall  
16           apply to a revocation under this paragraph. Any  
17           revocation shall take effect on the date specified  
18           in the revocation or upon publication in the  
19           Federal Register if no effective date is specified.

20           “(7) EFFECT OF REVOCATION.—The revocation  
21           of a designation under paragraph (5) or (6) shall  
22           not affect any action or proceeding based on conduct  
23           committed before the effective date of such revoca-  
24           tion.

1           “(8) USE OF DESIGNATION IN TRIAL OR HEAR-  
2           ING.—If a designation under this subsection has be-  
3           come effective pursuant to paragraph (2)(B), a de-  
4           fendant in a criminal action or an alien in a removal  
5           proceeding shall not be permitted to raise any ques-  
6           tion concerning the validity of the issuance of such  
7           designation as a defense or an objection at any trial  
8           or hearing.

9           “(b) AMENDMENTS TO A DESIGNATION.—

10           “(1) IN GENERAL.—The Attorney General may  
11           amend a designation under this subsection if the At-  
12           torney General discovers that the organization has  
13           changed its name, adopted a new alias, dissolved and  
14           then reconstituted itself under a different name or  
15           names, or merged with another organization.

16           “(2) PROCEDURE.—Amendments made to a  
17           designation in accordance with paragraph (1) shall  
18           be effective upon publication in the Federal Register.  
19           Subparagraphs (B) and (C) of subsection (a)(2)  
20           shall apply to an amended designation upon such  
21           publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),  
22           and (8) of subsection (a) shall apply to an amended  
23           designation.

24           “(3) ADMINISTRATIVE RECORD.—The adminis-  
25           trative record shall be corrected to include the

1 amendments and any additional relevant information  
2 that supports such amendments.

3 “(4) CLASSIFIED INFORMATION.—The Attorney  
4 General may consider classified information in  
5 amending a designation in accordance with this sub-  
6 section. Classified information shall not be subject to  
7 disclosure for such time as it remains classified, ex-  
8 cept that such information may be disclosed to a  
9 court ex parte and in camera for purposes of judicial  
10 review under subsection (c).

11 “(c) JUDICIAL REVIEW OF DESIGNATION.—

12 “(1) IN GENERAL.—Not later than 30 days  
13 after publication in the Federal Register of a des-  
14 ignation, an amended designation, or a determina-  
15 tion in response to a petition for revocation, the des-  
16 ignated organization may seek judicial review in the  
17 United States Court of Appeals for the District of  
18 Columbia Circuit.

19 “(2) BASIS OF REVIEW.—Review under this  
20 subsection shall be based solely upon the administra-  
21 tive record, except that the Government may submit,  
22 for ex parte and in camera review, classified infor-  
23 mation used in making the designation, amended  
24 designation, or determination in response to a peti-  
25 tion for revocation.

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

5           “(A) arbitrary, capricious, an abuse of dis-  
6 cretion, or otherwise not in accordance with  
7 law;

8           “(B) contrary to constitutional right,  
9 power, privilege, or immunity;

10           “(C) in excess of statutory jurisdiction, au-  
11 thority, or limitation, or short of statutory  
12 right;

13           “(D) lacking substantial support in the ad-  
14 ministrative record taken as a whole or in clas-  
15 sified information submitted to the court under  
16 paragraph (2); or

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

19           “(4) JUDICIAL REVIEW INVOKED.—The pend-  
20 ency of an action for judicial review of a designation,  
21 amended designation, or determination in response  
22 to a petition for revocation shall not affect the appli-  
23 cation of this section, unless the court issues a final  
24 order setting aside the designation, amended des-

1       ignation, or determination in response to a petition  
2       for revocation.”.

3               (2) CLERICAL AMENDMENT.—The table of con-  
4       tents of the Immigration and Nationality Act (8  
5       U.S.C. 1101 note) is amended by inserting after the  
6       item relating to section 219 the following:

“Sec. 219A. Designation of significant transnational criminal organizations.”.

7               (c) PROVIDING MATERIAL SUPPORT OR RESOURCES  
8       TO SIGNIFICANT TRANSNATIONAL CRIMINAL ORGANIZA-  
9       TIONS.—Section 2339B of title 18, United States Code,  
10       is amended—

11              (1) by inserting “or a significant transnational  
12       criminal organization” after “foreign terrorist orga-  
13       nization” each place such term appears;

14              (2) in subsection (a)(1), by amending the sec-  
15       ond sentence to read as follows: “A person may not  
16       be prosecuted for violating this paragraph unless the  
17       person has knowledge that the organization referred  
18       to in the previous sentence—

19                      “(A) is a designated terrorist organization;

20                      “(B) is a significant transnational criminal  
21       organization;

22                      “(C) has engaged or engages in terrorist  
23       activity (as defined in section 212(a)(3)(B) of  
24       the Immigration and Nationality Act); or

1           “(D) has engaged or engages in terrorism  
2           (as defined in section 140(d)(2) of the Foreign  
3           Relations Authorization Act, Fiscal Years 1988  
4           and 1989).”; and

5           (3) in subsection (g)—

6           (A) in paragraph (5), by striking “and” at  
7           the end;

8           (B) by redesignating paragraph (6) as  
9           paragraph (7); and

10          (C) by inserting after paragraph (5) the  
11          following:

12          “(6) the term ‘significant transnational criminal  
13          organization’ means an organization so designated  
14          under section 219A of the Immigration and Nation-  
15          ality Act; and”.

○