

116TH CONGRESS
1ST SESSION

H. R. 1106

To amend the Immigration and Nationality Act to provide that individuals who naturalized under title III of that Act, who are affiliated with a criminal gang, are subject to revocation of citizenship, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2019

Mr. ZELDIN (for himself, Mr. KING of New York, Mr. MEADOWS, and Mr. BROOKS of Alabama) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide that individuals who naturalized under title III of that Act, who are affiliated with a criminal gang, are subject to revocation of citizenship, 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 2019”.

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

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

5 “(53) The term ‘criminal gang’ means an ongo-
6 ing group, club, organization, or association of five
7 or more persons that has as one of its primary pur-
8 poses the commission of one or more of the following
9 criminal offenses and the members of which engage,
10 or have engaged within the past 5 years, in a con-
11 tinuing series of such offenses, or that has been des-
12 ignated as a criminal gang by the Secretary of
13 Homeland Security, in consultation with the Attor-
14 ney General, as meeting these criteria. The offenses
15 described, whether in violation of Federal or State
16 law or foreign law and regardless of whether the of-
17 fenses occurred before, on, or after the date of the
18 enactment of this paragraph, are the following:

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

22 “(B) An offense under section 274 (relat-
23 ing to bringing in and harboring certain aliens),
24 section 277 (relating to aiding or assisting cer-
25 tain aliens to enter the United States), or sec-

1 tion 278 (relating to importation of alien for
2 immoral purpose).

3 “(C) A crime of violence (as defined in sec-
4 tion 16 of title 18, United States Code).

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

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

1 state transportation of stolen motor vehicles or
2 stolen property).

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

5 **SEC. 3. GROUNDS OF INADMISSIBILITY AND DEPORT-**
6 **ABILITY FOR ALIEN GANG MEMBERS.**

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

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

15 “(i) to be or to have been a member
16 of a criminal gang (as defined in section
17 101(a)(53)); or

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

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

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

6 “(i) is or has been a member of a
7 criminal gang (as defined in section
8 101(a)(53)); or

9 “(ii) has participated in the activities
10 of a criminal gang (as so defined), knowing
11 or having reason to know that such activi-
12 ties will promote, further, aid, or support
13 the illegal activity of the criminal gang.”.

14 (c) DESIGNATION.—

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

19 “DESIGNATION OF CRIMINAL GANG

20 “SEC. 220. (a) DESIGNATION.—

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

26 “(2) PROCEDURE.—

1 “(A) NOTIFICATION.—Seven days before mak-
2 ing a designation under this subsection, the Sec-
3 retary shall, by classified communication, notify the
4 Speaker and Minority Leader of the House of Rep-
5 resentatives, the President pro tempore, Majority
6 Leader, and Minority Leader of the Senate, and the
7 members of the relevant committees of the House of
8 Representatives and the Senate, in writing, of the
9 intent to designate a group, club, organization, or
10 association of 5 or more persons under this sub-
11 section and the factual basis therefor.

12 “(B) PUBLICATION IN THE FEDERAL REG-
13 ISTER.—The Secretary shall publish the designation
14 in the Federal Register seven days after providing
15 the notification under subparagraph (A).

16 “(3) RECORD.—

17 “(A) IN GENERAL.—In making a designation
18 under this subsection, the Secretary shall create an
19 administrative record.

20 “(B) CLASSIFIED INFORMATION.—The Sec-
21 retary may consider classified information in making
22 a designation under this subsection. Classified infor-
23 mation shall not be subject to disclosure for such
24 time as it remains classified, except that such infor-
25 mation may be disclosed to a court ex parte and in

1 camera for purposes of judicial review under sub-
2 section (c).

3 “(4) PERIOD OF DESIGNATION.—

4 “(A) IN GENERAL.—A designation under this
5 subsection shall be effective for all purposes until re-
6 voked under paragraph (5) or (6) or set aside pursu-
7 ant to subsection (c).

8 “(B) REVIEW OF DESIGNATION UPON PETI-
9 TION.—

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

17 “(ii) PETITION PERIOD.—For purposes of
18 clause (i)—

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

1 “(II) if the designated group, club, or-
2 ganization, or association of 5 or more per-
3 sons has previously filed a petition for rev-
4 ocation under this subparagraph, the peti-
5 tion period begins 2 years after the date of
6 the determination made under clause (iv)
7 on that petition.

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

14 “(iv) DETERMINATION.—

15 “(I) IN GENERAL.—Not later than
16 180 days after receiving a petition for rev-
17 ocation submitted under this subpara-
18 graph, the Secretary shall make a deter-
19 mination as to such revocation.

20 “(II) CLASSIFIED INFORMATION.—
21 The Secretary may consider classified in-
22 formation in making a determination in re-
23 sponse to a petition for revocation. Classi-
24 fied information shall not be subject to dis-
25 closure for such time as it remains classi-

1 fied, except that such information may be
2 disclosed to a court ex parte and in camera
3 for purposes of judicial review under sub-
4 section (c).

5 “(III) PUBLICATION OF DETERMINA-
6 TION.—A determination made by the Sec-
7 retary under this clause shall be published
8 in the Federal Register.

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

12 “(C) OTHER REVIEW OF DESIGNATION.—

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

19 “(ii) PROCEDURES.—If a review does not
20 take place pursuant to subparagraph (B) in re-
21 sponse to a petition for revocation that is filed
22 in accordance with that subparagraph, then the
23 review shall be conducted pursuant to proce-
24 dures established by the Secretary. The results

1 of such review and the applicable procedures
2 shall not be reviewable in any court.

3 “(iii) PUBLICATION OF RESULTS OF RE-
4 VIEW.—The Secretary shall publish any deter-
5 mination made pursuant to this subparagraph
6 in the Federal Register.

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

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

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

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

22 “(ii) the national security or the law en-
23 forcement interests of the United States war-
24 rants a revocation.

1 “(B) PROCEDURE.—The procedural require-
2 ments of paragraphs (2) and (3) shall apply to a
3 revocation under this paragraph. Any revocation
4 shall take effect on the date specified in the revoca-
5 tion or upon publication in the Federal Register if
6 no effective date is specified.

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

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

17 “(b) AMENDMENTS TO A DESIGNATION.—

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

1 “(2) PROCEDURE.—Amendments made to a
2 designation in accordance with paragraph (1) shall
3 be effective upon publication in the Federal Register.
4 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
5 section (a) shall also apply to an amended designa-
6 tion.

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

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

19 “(c) JUDICIAL REVIEW OF DESIGNATION.—

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

1 United States Court of Appeals for the District of
2 Columbia Circuit.

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

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

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

17 “(B) contrary to constitutional right,
18 power, privilege, or immunity;

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

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

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

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

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

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

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

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

21 “(4) the term ‘Secretary’ means the Secretary
22 of Homeland Security, in consultation with the At-
23 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 of criminal gang.”.

4 (d) 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 (e) ASYLUM CLAIMS BASED ON GANG AFFILI-
4 ATION.—

5 (1) INAPPLICABILITY OF RESTRICTION ON RE-
6 MOVAL TO CERTAIN COUNTRIES.—Section
7 241(b)(3)(B) of the Immigration and Nationality
8 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
9 matter preceding clause (i), by inserting “who is de-
10 scribed in section 212(a)(2)(J)(i) or section
11 237(a)(2)(G)(i) or who is” after “to an alien”.

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

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

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

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

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

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

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

6 (2) in subparagraph (c)(2)(B)—

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

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

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

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

15 (3) in subsection (d)—

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

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

22 (g) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
23 101(a)(27)(J)(iii) of the Immigration and Nationality Act
24 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

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

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

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

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

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

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

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

19 **SEC. 4. CRIMINAL GANG MEMBERS AND SUPPORTERS DIS-**
20 **QUALIFIED FROM GOOD MORAL CHARACTER**
21 **PROVISION.**

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

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

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

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

5 “(10) one whom the Secretary of Homeland Se-
6 curity or the Attorney General determines, in the
7 unreviewable discretion of the Secretary of Home-
8 land Security or the Attorney General, to be an alien
9 who—

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

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

18 “(C) has been convicted of or has admitted
19 committing the essential elements of the fol-
20 lowing offenses—

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

1 “(ii) has engaged in conduct punish-
2 able under section 274, 277, or 278 of the
3 Immigration and Nationality Act; or

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

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

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

15 “(vi) engaged in conduct punishable
16 under sections 1581 through 1594 of title
17 18, United States Code; or

18 “(vii) engaged in conduct punishable
19 under sections 1951, 1952, 1956, and
20 1957 of title 18, United States Code; or

21 “(viii) engaged in conduct punishable
22 under sections 2312 through 2315 of title
23 18, United States Code; or

24 “(ix) attempted to engage in an of-
25 fense described in paragraphs (1) through

1 (8) above, or engaged in conduct punish-
2 able under sections 2 through 4, and sec-
3 tions 371 through 373 of title 18, United
4 States Code, in furtherance of such an of-
5 fense.”; and

6 (4) by adding at the end, at the end of the mat-
7 ter following paragraph (10) (as inserted in this sec-
8 tion), the following: “An alien shall be deemed to
9 have ‘admitted the essential elements of an offense’
10 upon an oral or written statement to such effect, or
11 upon a conviction or formal finding by a competent
12 Federal, State or local court, tribunal or military
13 proceeding that said person has engaged in unlawful
14 conduct whose essential elements include those that
15 would be required for conviction of a disqualifying
16 offense. A determination by the Secretary of Home-
17 land Security or Attorney General that an alien does
18 not exhibit good moral character based on gang
19 membership, association, affiliation, or provision of
20 material support, may be based upon any relevant
21 information or evidence, including classified, law en-
22 forcement sensitive, or national security information
23 and shall be binding upon any court regardless of
24 the applicable standard of review.”.

1 **SEC. 5. PROHIBITION AGAINST FILING.**

2 (a) IN GENERAL.—No person who—

3 (1) is or has ever been a member, associate or
4 affiliate of, or who has ever provided material sup-
5 port to, a criminal gang as defined in section 101
6 of the Immigration and Nationality Act;

7 (2) is or has ever been a member, associate or
8 affiliate of, or who has ever provided material sup-
9 port to, a criminal street gang as defined in section
10 520 of title 18 of the United States Code; or

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

14 shall be permitted to file an application or petition, or sub-
15 mit an affidavit of support, on behalf of an alien under
16 any provision of the immigration laws, nor shall such per-
17 son be permitted to assume custodial care for an unaccom-
18 panied alien minor.

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

21 (1) a felony drug offense (as defined in section
22 102 of the Controlled Substances Act (21 U.S.C.
23 802));

24 (2) conduct punishable under section 274, 277,
25 or 278 of the Immigration and Nationality Act;

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

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

6 (5) conduct punishable under section 1028 or
7 1029, and sections 1541 through 1546 of title 18 of
8 the United States Code;

9 (6) conduct punishable under sections 1581
10 through 1594 of title 18 of the United States Code;

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

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

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

20 (c) ADMISSION OF ESSENTIAL ELEMENTS OF AN OF-
21 FENSE.—A person shall be deemed to have admitted the
22 essential elements of an offense within the meaning of sub-
23 section (a)(3) upon an oral or written statement to such
24 effect, or upon a conviction or formal finding by a com-
25 petent Federal, State or local court, tribunal or military

1 proceeding that said person has engaged in unlawful con-
2 duct whose essential elements include those that would be
3 required for conviction of a disqualifying offense as de-
4 scribed in subsection (b).

5 **SEC. 6. DENATURALIZATION OF CRIMINAL GANG MEMBERS**
6 **AND SUPPORTERS.**

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

10 “(c) MEMBERSHIP IN CERTAIN ORGANIZATIONS;
11 PRIMA FACIE EVIDENCE.—

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

1 revocation and setting aside of the order admitting
2 such person to citizenship and the cancellation of the
3 certificate of naturalization as having been obtained
4 by concealment of a material fact or by willful mis-
5 representation, and such revocation and setting
6 aside of the order admitting such person to citizen-
7 ship and such canceling of certificate of naturaliza-
8 tion shall be effective as of the original date of the
9 order and certificate, respectively.

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

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

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

1 “(C) has been convicted of or has admitted
2 committing the essential elements of the fol-
3 lowing offenses—

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

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

9 “(iii) committed a crime of violence
10 (as defined in section 16 of title 18, United
11 States Code);

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

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

20 “(vi) engaged in conduct punishable
21 under sections 1581 through 1594 of title
22 18 of the United States Code; or engaged
23 in conduct punishable under sections 1951,
24 1952, 1956, and 1957 of title 18 of the
25 United States Code;

1 “(vii) engaged in conduct punishable
2 under sections 2312 through 2315 of title
3 18 of the United States Code; or

4 “(viii) attempted to engage in an of-
5 fense described in clauses (i) through (viii)
6 above, or engaged in conduct punishable
7 under sections 2 through 4, and sections
8 371 through 373 of title 18 of the United
9 States Code in furtherance of such an of-
10 fense.

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

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

22 The amendments made by this Act shall take effect
23 on the date of the enactment, shall apply to any act that
24 occurred before, on, or after the date of enactment, and
25 shall apply to any application for naturalization or any

- 1 other benefit or relief, or any other case or matter under
- 2 the immigration laws pending on or filed after the date
- 3 of enactment of this Act.

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