

115TH CONGRESS
2D SESSION

H. R. 4996

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 8, 2018

Mr. ZELDIN 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 2018”.

1 **SEC. 2. CRIMINAL GANG MEMBERS AND SUPPORTERS DIS-**
2 **QUALIFIED FROM GOOD MORAL CHARACTER**
3 **PROVISION.**

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

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

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

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

12 “(10) one whom the Secretary of Homeland Se-
13 curity or the Attorney General determines, in the
14 unreviewable discretion of the Secretary of Home-
15 land Security or the Attorney General, to be an alien
16 who—

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

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

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

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

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

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

21 “(vi) engaged in conduct punishable
22 under sections 1581 through 1594 of title
23 18, United States Code; or

1 “(vii) engaged in conduct punishable
2 under sections 1951, 1952, 1956, and
3 1957 of title 18, United States Code; or

4 “(viii) engaged in conduct punishable
5 under sections 2312 through 2315 of title
6 18, United States Code; or

7 “(ix) attempted to engage in an of-
8 fense described in paragraphs (1) through
9 (8) above, or engaged in conduct punish-
10 able under sections 2 through 4, and sec-
11 tions 371 through 373 of title 18, United
12 States Code, in furtherance of such an of-
13 fense.”; and

14 (4) by adding at the end, at the end of the mat-
15 ter following paragraph (10) (as inserted in this sec-
16 tion), the following: “An alien shall be deemed to
17 have ‘admitted the essential elements of an offense’
18 upon an oral or written statement to such effect, or
19 upon a conviction or formal finding by a competent
20 Federal, State or local court, tribunal or military
21 proceeding that said person has engaged in unlawful
22 conduct whose essential elements include those that
23 would be required for conviction of a disqualifying
24 offense. A determination by the Secretary of Home-
25 land Security or Attorney General that an alien does

1 not exhibit good moral character based on gang
2 membership, association, affiliation, or provision of
3 material support, may be based upon any relevant
4 information or evidence, including classified, law en-
5 forcement sensitive, or national security information
6 and shall be binding upon any court regardless of
7 the applicable standard of review.”.

8 **SEC. 3. DEFINITION OF CRIMINAL GANG.**

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

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

1 “(A) A ‘felony drug offense’ (as defined in
2 section 102 of the Controlled Substances Act
3 (21 U.S.C. 802)).

4 “(B) An offense under section 274 (relat-
5 ing to bringing in and harboring certain aliens),
6 section 277 (relating to aiding or assisting cer-
7 tain aliens to enter the United States), or sec-
8 tion 278 (relating to importation of alien for
9 immoral purpose).

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

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

15 “(E) Any conduct punishable under sec-
16 tions 1028 and 1029 of title 18, United States
17 Code (relating to fraud and related activity in
18 connection with identification documents or ac-
19 cess devices), sections 1581 through 1594 of
20 such title (relating to peonage, slavery, and
21 trafficking in persons), section 1951 of such
22 title (relating to interference with commerce by
23 threats or violence), section 1952 of such title
24 (relating to interstate and foreign travel or
25 transportation in aid of racketeering enter-

1 prises), section 1956 of such title (relating to
2 the laundering of monetary instruments), sec-
3 tion 1957 of such title (relating to engaging in
4 monetary transactions in property derived from
5 specified unlawful activity), or sections 2312
6 through 2315 of such title (relating to inter-
7 state transportation of stolen motor vehicles or
8 stolen property).

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

11 **SEC. 4. PROHIBITION AGAINST FILING.**

12 (a) IN GENERAL.—No person who—

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

17 (2) is or has ever been a member, associate or
18 affiliate of, or who has ever provided material sup-
19 port to, a criminal street gang as defined in section
20 520 of title 18 of the United States Code; or

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

24 shall be permitted to file an application or petition, or sub-
25 mit an affidavit of support, on behalf of an alien under

1 any provision of the immigration laws, nor shall such per-
2 son be permitted to assume custodial care for an unaccom-
3 panied alien minor.

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

6 (1) a felony drug offense (as defined in section
7 102 of the Controlled Substances Act (21 U.S.C.
8 802));

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

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

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

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

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

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

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

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

6 (c) **ADMISSION OF ESSENTIAL ELEMENTS OF AN OF-**
 7 **FENSE.**—A person shall be deemed to have admitted the
 8 essential elements of an offense within the meaning of sub-
 9 section (a)(3) upon an oral or written statement to such
 10 effect, or upon a conviction or formal finding by a com-
 11 petent Federal, State or local court, tribunal or military
 12 proceeding that said person has engaged in unlawful con-
 13 duct whose essential elements include those that would be
 14 required for conviction of a disqualifying offense as de-
 15 scribed in subsection (b).

16 **SEC. 5. DENATURALIZATION OF CRIMINAL GANG MEMBERS**
 17 **AND SUPPORTERS.**

18 Section 340 of the Immigration and Nationality Act
 19 (8 U.S.C. 1451) is amended by striking subsection (c) and
 20 inserting the following language:

21 “(c) **MEMBERSHIP IN CERTAIN ORGANIZATIONS;**
 22 **PRIMA FACIE EVIDENCE.**—

23 “(1) **IN GENERAL.**—If a person who shall have
 24 been naturalized after December 24, 1952, shall
 25 within 10 years following such naturalization become

1 a member of or affiliated with any organization,
2 membership in or affiliation with which at the time
3 of naturalization would have precluded such person
4 from naturalization under the provisions of section
5 313, it shall be considered prima facie evidence that
6 such person was not attached to the principles of the
7 Constitution of the United States and was not well
8 disposed to the good order and happiness of the
9 United States at the time of naturalization, and, in
10 the absence of countervailing evidence, it shall be
11 sufficient in the proper proceeding to authorize the
12 revocation and setting aside of the order admitting
13 such person to citizenship and the cancellation of the
14 certificate of naturalization as having been obtained
15 by concealment of a material fact or by willful mis-
16 representation, and such revocation and setting
17 aside of the order admitting such person to citizen-
18 ship and such canceling of certificate of naturaliza-
19 tion shall be effective as of the original date of the
20 order and certificate, respectively.

21 “(2) ORGANIZATION, MEMBERSHIP IN OR AF-
22 FILIATION WITH WHICH AT THE TIME OF NATU-
23 RALIZATION WOULD HAVE PRECLUDED SUCH PER-
24 SON FROM NATURALIZATION.—The phrase ‘any or-
25 ganization, membership in or affiliation with which

1 at the time of naturalization would have precluded
2 such person from naturalization’ shall be deemed to
3 include an alien 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 of the United
11 States 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));

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

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

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;

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

7 “(vi) engaged in conduct punishable
8 under sections 1581 through 1594 of title
9 18 of the United States Code; or engaged
10 in conduct punishable under sections 1951,
11 1952, 1956, and 1957 of title 18 of the
12 United States Code;

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

16 “(viii) attempted to engage in an of-
17 fense described in clauses (i) through (viii)
18 above, or engaged in conduct punishable
19 under sections 2 through 4, and sections
20 371 through 373 of title 18 of the United
21 States Code in furtherance of such an of-
22 fense.

23 “(3) DEEMED TO HAVE ADMITTED.—An alien
24 shall be deemed to have admitted the essential ele-
25 ments of an offense within the meaning of para-

1 graph (2)(C) upon an oral or written statement to
2 such effect, or upon a conviction or formal finding
3 by a competent Federal, State or local court, tri-
4 bunal or military proceeding that said person has
5 engaged in unlawful conduct whose essential ele-
6 ments include those that would be required for con-
7 viction of a disqualifying offense.”.

8 **SEC. 6. EFFECTIVE DATE AND APPLICATION.**

9 The amendments made by this Act shall take effect
10 on the date of the enactment, shall apply to any act that
11 occurred before, on, or after the date of enactment, and
12 shall apply to any application for naturalization or any
13 other benefit or relief, or any other case or matter under
14 the immigration laws pending on or filed after the date
15 of enactment of this Act.

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