

115TH CONGRESS
2D SESSION

H. R. 5065

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 15, 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; or

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.”; and

25 (4) by adding at the end, at the end of the mat-
26 ter following paragraph (10) (as inserted in this sec-

1 tion) the following: “A determination by the Sec-
2 retary of Homeland Security or Attorney General
3 that an alien does not exhibit good moral character
4 based on gang membership, association, affiliation,
5 or provision of material support, may be based upon
6 any relevant information or evidence, including clas-
7 sified, law enforcement sensitive, or national security
8 information and shall be binding upon any court re-
9 gardless of the applicable standard of review.”.

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

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

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

1 fenses occurred before, on, or after the date of the
2 enactment of this paragraph, are the following:

3 “(A) A ‘felony drug offense’ (as defined in
4 section 102 of the Controlled Substances Act
5 (21 U.S.C. 802)).

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

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

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

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

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

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

13 **SEC. 4. PROHIBITION AGAINST FILING.**

14 No person who—

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

19 (2) is or has ever been a member, associate or
20 affiliate of, or who has ever provided material sup-
21 port to, a criminal street gang as defined in section
22 520 of title 18 of the United States Code,

23 shall be permitted to file an application or petition, or sub-
24 mit an affidavit of support, on behalf of an alien under
25 any provision of the immigration laws, nor shall such per-

1 son be permitted to assume custodial care for an unaccom-
2 panied alien minor.

3 **SEC. 5. DENATURALIZATION OF CRIMINAL GANG MEMBERS**
4 **AND SUPPORTERS.**

5 Section 340 of the Immigration and Nationality Act
6 (8 U.S.C. 1451) is amended by striking subsection (c) and
7 inserting the following language—

8 “(c) MEMBERSHIP IN CERTAIN ORGANIZATIONS;
9 PRIMA FACIE EVIDENCE.—

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

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

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

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

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

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

2 The amendments made by this Act shall take effect
3 on the date of the enactment, shall apply to any act that
4 occurred before, on, or after the date of enactment, and
5 shall apply to any application for naturalization or any
6 other benefit or relief, or any other case or matter under
7 the immigration laws pending on or filed after the date
8 of enactment of this Act.

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