H. R. 6094

AN ACT

To restore the Secretary of Homeland Security’s authority to detain dangerous aliens, to ensure the removal of deportable criminal aliens, and combat alien gang crime.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Community Protection Act of 2006”.

TITLE I—DANGEROUS ALIEN DETENTION ACT OF 2006

SEC. 101. DETENTION OF DANGEROUS ALIENS.

Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking “Attorney General” each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting “Secretary of Homeland Security”;

(2) in paragraph (1), by adding at the end of subparagraph (B) the following:

“If, at that time, the alien is not in the custody of the Secretary of Homeland Security (under the authority of this Act), the Secretary shall take the alien into custody for removal, and the removal period shall not begin until the alien is taken into such custody. If the Secretary transfers custody of the alien during the removal period pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall begin anew on the date of the alien’s return to
the custody of the Secretary, subject to clause (ii).”;

(3) by amending clause (ii) of paragraph (1)(B) to read as follows:

“(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the date the stay of removal is no longer in effect.”;

(4) by amending paragraph (1)(C) to read as follows:

“(C) Suspension of period.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary of Homeland Security’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, or conspires or acts to prevent the alien’s removal subject to an order of removal.”;
(5) in paragraph (2), by adding at the end the following: “If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal, the Secretary, in the exercise of the Secretary’s discretion, may detain the alien during the pendency of such stay of removal.”;

(6) by amending paragraph (3)(D) to read as follows:

“(D) to obey reasonable restrictions on the alien’s conduct or activities, or perform affirmative acts, that the Secretary of Homeland Security prescribes for the alien, in order to prevent the alien from absconding, or for the protection of the community, or for other purposes related to the enforcement of the immigration laws.”;

(7) in paragraph (6), by striking “removal period and, if released,” and inserting “removal period, in the discretion of the Secretary of Homeland Security, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien”; and

(8) by redesignating paragraph (7) as paragraph (10) and inserting after paragraph (6) the following:
“(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary’s discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding such section, that the alien shall not be returned to custody unless either the alien violates the conditions of the alien’s parole or the alien’s removal becomes reasonably foreseeable, but in no circumstance shall such alien be considered admitted.

“(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN ENTRY.—The following procedures apply only with respect to an alien who has effected an entry into the United States. These procedures do not apply to any other alien detained pursuant to paragraph (6):

“(A) ESTABLISHMENT OF A DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY COOPERATE WITH REMOVAL.—For an alien who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents
necessary to the alien’s departure, and has not
conspired or acted to prevent removal, the Sec-
retary shall establish an administrative review
process to determine whether the alien should
be detained or released on conditions. The Sec-
retary shall make a determination whether to
release an alien after the removal period in ac-
cordance with subparagraph (B). The deter-
mination shall include consideration of any evi-
dence submitted by the alien, and may include
consideration of any other evidence, including
any information or assistance provided by the
Secretary of State or other Federal official and
any other information available to the Secretary
of Homeland Security pertaining to the ability
to remove the alien.

“(B) AUTHORITY TO DETAIN BEYOND THE
REMOVAL PERIOD.—

“(i) IN GENERAL.—The Secretary of
Homeland Security, in the exercise of the
Secretary’s discretion, without any limita-
tions other than those specified in this sec-
tion, may continue to detain an alien for
90 days beyond the removal period (includ-
ing any extension of the removal period as
provided in paragraph (1)(C)).

“(ii) SPECIFIC CIRCUMSTANCES.—The
Secretary of Homeland Security, in the ex-
ercise of the Secretary’s discretion, without
any limitations other than those specified
in this section, may continue to detain an
alien beyond the 90 days authorized in
clause (i)—

“(I) until the alien is removed, if
the Secretary determines that there is
a significant likelihood that the
alien—

“(aa) will be removed in the
reasonably foreseeable future; or

“(bb) would be removed in
the reasonably foreseeable future,
or would have been removed, but
for the alien’s failure or refusal
to make all reasonable efforts to
comply with the removal order,
or to cooperate fully with the
Secretary’s efforts to establish
the aliens’ identity and carry out
the removal order, including
making timely application in
good faith for travel or other doc-
ments necessary to the alien’s
departure, or conspiracies or acts
to prevent removal;

“(II) until the alien is removed,
if the Secretary of Homeland Security
certifies in writing—

“(aa) in consultation with
the Secretary of Health and
Human Services, that the alien
has a highly contagious disease
that poses a threat to public safe-
ty;

“(bb) after receipt of a writ-
ten recommendation from the
Secretary of State, that release
of the alien is likely to have seri-
ous adverse foreign policy con-
sequences for the United States;

“(cc) based on information
available to the Secretary of
Homeland Security (including
classified, sensitive, or national
security information, and without
regard to the grounds upon which the alien was ordered re-
moved), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

“(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot rea-
sonably be expected to ensure the safety of the community or any person, and either (AA) the alien has been convicted of one or more aggravated felonies (as de-
finite in section 101(a)(43)(A)) or of one or more crimes identi-
ified by the Secretary of Hom-eland Security by regulation, or of one or more attempts or conspir-
acies to commit any such aggra-
vated felonies or such identified crimes, if the aggregate term of imprisonment for such attempts or conspiracies is at least 5
years; or (BB) the alien has committed one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

“(ee) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and the alien has been convicted of at least one aggravated felony (as defined in section 101(a)(43)); or

“(III) pending a determination under subclause (II), so long as the Secretary of Homeland Security has initiated the administrative review
process not later than 30 days after
the expiration of the removal period
(including any extension of the re-
moval period, as provided in sub-
section (a)(1)(C)).

“(C) RENEWAL AND DELEGATION OF CER-
TIFICATION.—

“(i) RENEWAL.—The Secretary of
Homeland Security may renew a certifi-
cation under subparagraph (B)(ii)(II)
every 6 months without limitation, after
providing an opportunity for the alien to
request reconsideration of the certification
and to submit documents or other evidence
in support of that request. If the Secretary
does not renew a certification, the Sec-
retary may not continue to detain the alien
under subparagraph (B)(ii)(II).

“(ii) DELEGATION.—Notwithstanding
section 103, the Secretary of Homeland
Security may not delegate the authority to
make or renew a certification described in
item (bb), (cc), or (ee) of subparagraph
(B)(ii)(II) below the level of the Assistant
Secretary for Immigration and Customs Enforcement.

“(iii) HEARING.—The Secretary of Homeland Security may request that the Attorney General or the Attorney General’s designee provide for a hearing to make the determination described in item (dd)(BB) of subparagraph (B)(ii)(II).

“(D) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary of Homeland Security, in the exercise of the Secretary’s discretion, may impose conditions on release as provided in paragraph (3).

“(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of the Secretary’s discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release, or to continue to satisfy the conditions described in subparagraph (A), or if, upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (B).
Paragraphs (6) through (8) shall apply to any alien returned to custody pursuant to this sub-
paragraph, as if the removal period terminated on the day of the redetention.

“(F) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has effected an entry, but has neither been lawfully admitted nor has been physically present in the United States continuously for the 2-year period immediately prior to the commencement of removal proceedings under this Act or deportation proceedings against the alien, the Secretary of Homeland Security, in the exercise of the Secretary’s discretion, may decide not to apply paragraph (8) and detain the alien without any limitations except those which the Secretary shall adopt by regulation.

“(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision pursuant to paragraphs (6), (7), or (8) shall be available exclusively in habeas corpus proceedings instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and regulatory) available to the alien as of right.”.

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SEC. 102. DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.

(a) Detention Authority.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following:

"(e) LENGTH OF DETENTION.—

"(1) IN GENERAL.—With regard to length of detention, an alien may be detained under this section, without limitation, until the alien is subject to an administratively final order of removal.

"(2) CONSTRUCTION.—The length of detention under this section shall not affect the validity of any detention under section 241.

"(f) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (e) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.".

(b) Judicial Review.—Section 236(e) of such Act (8 U.S.C. 1226(e)) is amended by adding at the end the following: "Without regard to the place of confinement, judicial review of any action or decision made pursuant to subsection (f) shall be available exclusively in a habeas
corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.”.

(c) LENGTH OF DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

“(f) LENGTH OF DETENTION.—

“(1) IN GENERAL.—With regard to length of detention, an alien may be detained under this section, without limitation, until the alien is subject to an administratively final order of removal.

“(2) CONSTRUCTION.—The length of detention under this section shall not affect the validity of any detention under section 241 of this Act.”.

SEC. 103. SEVERABILITY.

If any provision of this title, or any amendment made by this title, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this title, and of the amendments made by this title, and the application of the provisions and of the amendments made by this title to any other person or circumstance, shall not be affected by such holding.
SEC. 104. EFFECTIVE DATES.

(a) Section 101.—The amendments made by section 101 shall take effect on the date of the enactment of this Act, and section 241 of the Immigration and Nationality Act, as amended, shall apply to—

(1) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(2) acts and conditions occurring or existing before, on, or after the date of the enactment of this Act.

(b) Section 102.—The amendments made by section 102 shall take effect upon the date of the enactment of this Act, and sections 235 and 236 of the Immigration and Nationality Act, as amended, shall apply to any alien in detention under provisions of such sections on or after the date of the enactment of this Act.

TITLE II—CRIMINAL ALIEN REMOVAL ACT

SEC. 201. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL GROUNDS.

(a) In General.—Section 238(b) of the Immigration and Nationality Act (8 U.S.C. 1228(b)) is amended—

(1) in paragraph (1)—
(A) by striking “Attorney General” and inserting “Secretary of Homeland Security in the exercise of discretion”; and

(B) by striking “set forth in this subsection or” and inserting “set forth in this subsection, in lieu of removal proceedings under”;

(2) in paragraph (3), by striking “paragraph (1) until 14 calendar days” and inserting “paragraph (1) or (3) until 7 calendar days”;

(3) by striking “Attorney General” each place it appears in paragraphs (3) and (4) and inserting “Secretary of Homeland Security”;

(4) in paragraph (5)—

(A) by striking “described in this section” and inserting “described in paragraph (1) or (2)”; and

(B) by striking “the Attorney General may grant in the Attorney General’s discretion” and inserting “the Secretary of Homeland Security or the Attorney General may grant, in the discretion of the Secretary or Attorney General, in any proceeding”;

(5) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and
(6) by inserting after paragraph (2) the following new paragraph:

“(3) The Secretary of Homeland Security in the exercise of discretion may determine inadmissibility under section 212(a)(2) (relating to criminal offenses) and issue an order of removal pursuant to the procedures set forth in this subsection, in lieu of removal proceedings under section 240, with respect to an alien who—

“(A) has not been admitted or paroled;

“(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in section 235(b)(1)(B); and

“(C) is not eligible for a waiver of inadmissibility or relief from removal.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act as of such date.
TITLE III—ALIEN GANG
REMOVAL ACT OF 2006

SEC. 301. RENDERING INADMISSIBLE AND DEPORTABLE
ALIENS PARTICIPATING IN CRIMINAL STREET GANGS.

(a) INADMISSIBLE.—Section 212(a)(2) of the Immig-
ration and Nationality Act (8 U.S.C. 1182(a)(2)) is
amended by adding at the end the following:

“(J) CRIMINAL STREET GANG PARTICIPA-
tion.—

“(i) IN GENERAL.—Any alien is inad-
missible if—

“(I) the alien has been removed
under section 237(a)(2)(F); or

“(II) the consular officer or the
Secretary of Homeland Security
knows, or has reasonable ground to
believe that the alien—

“(aa) is a member of a
criminal street gang and has
committed, conspired, or threat-
ened to commit, or seeks to enter
the United States to engage sole-
ly, principally, or incidentally in,
a gang crime or any other unlawful activity; or

“(bb) is a member of a criminal street gang designated under section 219A.

“(ii) DEFINITIONS.—For purposes of this subparagraph:

“(I) CRIMINAL STREET GANG.—

The term ‘criminal street gang’ means a formal or informal group or association of 3 or more individuals, who commit 2 or more gang crimes (one of which is a crime of violence, as defined in section 16 of title 18, United States Code) in 2 or more separate criminal episodes in relation to the group or association.

“(II) GANG CRIME.—The term ‘gang crime’ means conduct constituting any Federal or State crime, punishable by imprisonment for one year or more, in any of the following categories:
“(aa) A crime of violence (as defined in section 16 of title 18, United States Code).

“(bb) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

“(cc) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(dd) Any conduct punishable under section 844 of title 18, United States Code (relating to explosive materials), subsection (d), (g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of such title) or is a
serious drug offense (as defined in section 924(e)(2)(A)), (i), (j), (k), (o), (p), (q), (u), or (x) of section 922 of such title (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 of such title (relating to penalties), section 930 of such title (relating to possession of firearms and dangerous weapons in Federal facilities), section 931 of such title (relating to purchase, ownership, or possession of body armor by violent felons), sections 1028 and 1029 of such title (relating to fraud and related activity in connection with identification documents or access devices), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments),
section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

“(ee) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) of this Act.”.

(b) DEPORTABLE.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(F) CRIMINAL STREET GANG PARTICIPATION.—

“(i) IN GENERAL.—Any alien is deportable who—
“(I) is a member of a criminal street gang and is convicted of committing, or conspiring, threatening, or attempting to commit, a gang crime; or

“(II) is determined by the Secretary of Homeland Security to be a member of a criminal street gang designated under section 219A.

“(ii) DEFINITIONS.—For purposes of this subparagraph, the terms ‘criminal street gang’ and ‘gang crime’ have the meaning given such terms in section 212(a)(2)(J)(ii).”.

(c) DESIGNATION OF CRIMINAL STREET GANGS.—

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

“DESIGNATION OF CRIMINAL STREET GANGS

“SEC. 219A. (a) DESIGNATION.—

“(1) IN GENERAL.—The Attorney General is authorized to designate a group or association as a criminal street gang in accordance with this subsection if the Attorney General finds that the group or association meets the criteria described in section 212(a)(2)(J)(ii)(I).
“(2) Procedure.—

“(A) Notice.—

“(i) To congressional leaders.—
Seven days before making a designation under this subsection, the Attorney General shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, in writing, of the intent to designate a group or association under this subsection, together with the findings made under paragraph (1) with respect to that group or association, and the factual basis therefor.

“(ii) Publication in Federal Register.—The Attorney shall publish the designation in the Federal Register seven days after providing the notification under clause (i).

“(B) Effect of designation.—
“(i) A designation under this subsection shall take effect upon publication under subparagraph (A)(ii).

“(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

“(3) RECORD.—In making a designation under this subsection, the Attorney General shall create an administrative record.

“(4) PERIOD OF DESIGNATION.—

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

“(B) REVIEW OF DESIGNATION UPON PETITION.—

“(i) IN GENERAL.—The Attorney General shall review the designation of a criminal street gang under the procedures set forth in clauses (iii) and (iv) if the designated gang or association files a petition for revocation within the petition period described in clause (ii).
“(ii) Petition period.—For purposes of clause (i)—

“(I) if the designated gang or association has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

“(II) if the designated gang or association has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

“(iii) Procedures.—Any criminal street gang that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the gang is warranted.

“(iv) Determination.—
“(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Attorney General shall make a determination as to such revocation.

“(II) PUBLICATION OF DETERMINATION.—A determination made by the Attorney General under this clause shall be published in the Federal Register.

“(III) PROCEDURES.—Any revocation by the Attorney General shall be made in accordance with paragraph (6).

“(C) OTHER REVIEW OF DESIGNATION.—

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

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

“(iii) Publication of results of
Review.—The Attorney General shall pub-
lish any determination made pursuant to
this subparagraph in the Federal Register.

“(5) Revocation by Act of Congress.—The
Congress, by an Act of Congress, may block or re-
voke a designation made under paragraph (1).

“(6) Revocation Based on Change in Cir-
cumstances.—

“(A) In general.—The Attorney General
may revoke a designation made under para-
graph (1) at any time, and shall revoke a des-
ignation upon completion of a review conducted
pursuant to subparagraphs (B) and (C) of
paragraph (4) if the Attorney General finds
that—
“(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation; or

“(ii) the national security of the United States warrants a revocation.

“(B) PROCEDURE.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

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

“(8) USE OF DESIGNATION IN HEARING.—If a designation under this subsection has become effective under paragraph (2)(B) an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any hearing.

“(b) JUDICIAL REVIEW OF DESIGNATION.—
“(1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, a group or association designated as a criminal street gang may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

“(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record.

“(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

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

“(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

“(D) lacking substantial support in the administrative record taken as a whole; or

“(E) not in accord with the procedures required by law.
“(4) Judicial review invoked.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

“(c) Relevant committee defined.—As used in this section, the term ‘relevant committees’ means the Committees on the Judiciary of the House of Representatives and of the Senate.”.

(2) Clerical amendment.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 219 the following:

“Sec. 219A. Designation of criminal street gangs.”.

SEC. 302. MANDATORY DETENTION OF SUSPECTED CRIMINAL STREET GANG MEMBERS.

(a) In general.—Section 236(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(D)) is amended—

(1) by inserting “or 212(a)(2)(J)” after “212(a)(3)(B)”; and

(2) by inserting “or 237(a)(2)(F)” before “237(a)(4)(B)”.

(b) Annual report.—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security,
after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the number of aliens detained under the amendments made by subsection (a).

SEC. 303. INELIGIBILITY FROM PROTECTION FROM REMOVAL AND ASYLUM.

(a) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting “who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) or who is” after “to an alien”.

(b) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) in clause (v), by striking “or” at the end;

(2) by redesignating clause (vi) as clause (vii);

and

(3) by inserting after clause (v) the following:

“(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) (relating to participation in criminal street gangs); or”.

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(c) Denial of Review of Determination of Ineligibility for Temporary Protected Status.—

Section 244(c)(2) of such Act (8 U.S.C. 1254(c)(2)) is amended by adding at the end the following:

“(C) Limitation on Judicial Review.—

There shall be no judicial review of any finding under subparagraph (B) that an alien is in described in section 208(b)(2)(A)(vi).”.

Passed the House of Representatives September 21, 2006.

Attest:

Clerk.
To restore the Secretary of Homeland Security's authority to detain dangerous aliens and combat alien gang crime.

AN ACT

H. R. 6094