

118TH CONGRESS  
2D SESSION

# H. R. 9657

To amend the Immigration and Nationality Act to provide for the detention and removal of certain aliens belonging to international criminal gangs.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2024

Mr. LOPEZ (for himself and Mr. OWENS) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To amend the Immigration and Nationality Act to provide for the detention and removal of certain aliens belonging to international criminal gangs.

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 “Detain and Deport  
5       Gang Members Act of 2024”.

6       **SEC. 2. DETENTION OF CERTAIN ALIENS WHO BELONG TO**  
7       **INTERNATIONAL CRIMINAL GANGS.**

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

1       “(53) The term ‘criminal gang’ means an ongoing  
2 group, club, organization, or association of 5 or more per-  
3 sons that has as one of its primary purposes the commis-  
4 sion of 1 or more of the following criminal offenses and  
5 the members of which engage, or have engaged within the  
6 past 5 years, in a continuing series of such offenses, or  
7 that has been designated as a criminal gang by the Sec-  
8 retary of Homeland Security, in consultation with the At-  
9 torney General, as meeting these criteria. The offenses de-  
10 scribed, whether in violation of Federal or State law or  
11 foreign law and regardless of whether the offenses oc-  
12 curred before, on, or after the date of the enactment of  
13 this paragraph, are the following:

14           “(A) A ‘felony drug offense’ (as defined in sec-  
15 tion 102 of the Controlled Substances Act (21  
16 U.S.C. 802)).

17           “(B) An offense under section 274 (relating to  
18 bringing in and harboring certain aliens), section  
19 277 (relating to aiding or assisting certain aliens to  
20 enter the United States), or section 278 (relating to  
21 importation of alien for immoral purpose).

22           “(C) A crime of violence (as defined in section  
23 16 of title 18, United States Code).

1           “(D) A crime involving obstruction of justice,  
2           tampering with or retaliating against a witness, vic-  
3           tim, or informant, or burglary.

4           “(E) Any conduct punishable under sections  
5           1028 and 1029 of title 18, United States Code (re-  
6           lating to fraud and related activity in connection  
7           with identification documents or access devices), sec-  
8           tions 1581 through 1594 of such title (relating to  
9           peonage, slavery, and trafficking in persons), section  
10          1951 of such title (relating to interference with com-  
11          merce by threats or violence), section 1952 of such  
12          title (relating to interstate and foreign travel or  
13          transportation in aid of racketeering enterprises),  
14          section 1956 of such title (relating to the laundering  
15          of monetary instruments), section 1957 of such title  
16          (relating to engaging in monetary transactions in  
17          property derived from specified unlawful activity), or  
18          sections 2312 through 2315 of such title (relating to  
19          interstate transportation of stolen motor vehicles or  
20          stolen property).

21          “(F) A conspiracy to commit an offense de-  
22          scribed in subparagraphs (A) through (E).”.

23          (b) INADMISSIBILITY.—Section 212(a)(2) of such Act  
24          (8 U.S.C. 1182(a)(2)) is amended by adding at the end  
25          the following:

“(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien is inadmissible who a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe—

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

“(ii) to have participated in the activities of a criminal gang (as defined in section 101(a)(53)), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang.”.

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

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(B) in subparagraph (C), by striking “, or” and inserting a comma;

(C) in subparagraph (D), by adding “or” at the end; and

1 (D) by inserting after subparagraph (D)  
2 the following:

3 “(E) is or has been a member of a crimi-  
4 nal gang, or has participated in the activities of  
5 a criminal gang, knowing or having reason to  
6 know that such activities will promote, further,  
7 aid, or support the illegal activity of the crimi-  
8 nal gang;”;

9 (2) by redesignating paragraph (2) as para-  
10 graph (4); and

11 (3) by inserting after paragraph (1) the fol-  
12 lowing:

13 “(2) DETAINER.—The Secretary of Homeland  
14 Security shall issue a detainer for an alien described  
15 in paragraph (1)(E) and, if the alien is not other-  
16 wise detained by Federal, State, or local officials,  
17 shall effectively and expeditiously take custody of the  
18 alien.”.

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

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

1 “(i) is or has been a member of a  
 2 criminal gang (as defined in section  
 3 101(a)(53)); or

4 “(ii) has participated in the activities  
 5 of a criminal gang (as so defined), knowing  
 6 or having reason to know that such activi-  
 7 ties will promote, further, aid, or support  
 8 the illegal activity of the criminal gang.”.

9 (e) DESIGNATION.—

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

14 “DESIGNATION OF CRIMINAL GANG

15 “SEC. 220. (a) DESIGNATION.—

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

21 “(2) PROCEDURE.—

22 “(A) NOTIFICATION.—Seven days before mak-  
 23 ing a designation under this subsection, the Sec-  
 24 retary shall, by classified communication, notify the  
 25 Speaker and Minority Leader of the House of Rep-  
 26 resentatives, the President pro tempore, Majority

1 Leader, and Minority Leader of the Senate, and the  
2 members of the relevant committees of the House of  
3 Representatives and the Senate, in writing, of the  
4 intent to designate a group, club, organization, or  
5 association of 5 or more persons under this sub-  
6 section and the factual basis therefor.

7 “(B) PUBLICATION IN THE FEDERAL REG-  
8 ISTER.—The Secretary shall publish the designation  
9 in the Federal Register seven days after providing  
10 the notification under subparagraph (A).

11 “(3) RECORD.—

12 “(A) IN GENERAL.—In making a designation  
13 under this subsection, the Secretary shall create an  
14 administrative record.

15 “(B) CLASSIFIED INFORMATION.—The Sec-  
16 retary may consider classified information in making  
17 a designation under this subsection. Classified infor-  
18 mation shall not be subject to disclosure for such  
19 time as it remains classified, except that such infor-  
20 mation may be disclosed to a court ex parte and in  
21 camera for purposes of judicial review under sub-  
22 section (c).

23 “(4) PERIOD OF DESIGNATION.—

24 “(A) IN GENERAL.—A designation under this  
25 subsection shall be effective for all purposes until re-

1 voked under paragraph (5) or (6) or set aside pursu-  
2 ant to subsection (c).

3 “(B) REVIEW OF DESIGNATION UPON PETI-  
4 TION.—

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

12 “(ii) PETITION PERIOD.—For purposes of  
13 clause (i)—

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

21 “(II) if the designated group, club, or-  
22 ganization, or association of 5 or more per-  
23 sons has previously filed a petition for rev-  
24 ocation under this subparagraph, the peti-  
25 tion period begins 2 years after the date of



1 the determination made under clause (iv)  
2 on that petition.

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

9 “(iv) DETERMINATION.—

10 “(I) IN GENERAL.—Not later than  
11 180 days after receiving a petition for rev-  
12 ocation submitted under this subpara-  
13 graph, the Secretary shall make a deter-  
14 mination as to such revocation.

15 “(II) CLASSIFIED INFORMATION.—  
16 The Secretary may consider classified in-  
17 formation in making a determination in re-  
18 sponse to a petition for revocation. Classi-  
19 fied information shall not be subject to dis-  
20 closure for such time as it remains classi-  
21 fied, except that such information may be  
22 disclosed to a court ex parte and in camera  
23 for purposes of judicial review under sub-  
24 section (c).

1 “(III) PUBLICATION OF DETERMINA-  
2 TION.—A determination made by the Sec-  
3 retary under this clause shall be published  
4 in the Federal Register.

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

8 “(C) OTHER REVIEW OF DESIGNATION.—

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

15 “(ii) PROCEDURES.—If a review does not  
16 take place pursuant to subparagraph (B) in re-  
17 sponse to a petition for revocation that is filed  
18 in accordance with that subparagraph, then the  
19 review shall be conducted pursuant to proce-  
20 dures established by the Secretary. The results  
21 of such review and the applicable procedures  
22 shall not be reviewable in any court.

23 “(iii) PUBLICATION OF RESULTS OF RE-  
24 VIEW.—The Secretary shall publish any deter-

1           mination made pursuant to this subparagraph  
2           in the Federal Register.

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

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

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

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

18           “(ii) the national security or the law en-  
19 forcement interests of the United States war-  
20 rants a revocation.

21           “(B) PROCEDURE.—The procedural require-  
22 ments of paragraphs (2) and (3) shall apply to a  
23 revocation under this paragraph. Any revocation  
24 shall take effect on the date specified in the revoca-

1       tion or upon publication in the Federal Register if  
2       no effective date is specified.

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

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

13      “(b) AMENDMENTS TO A DESIGNATION.—

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

22           “(2) PROCEDURE.—Amendments made to a  
23      designation in accordance with paragraph (1) shall  
24      be effective upon publication in the Federal Register.  
25      Paragraphs (2), (4), (5), (6), (7), and (8) of sub-

1 section (a) shall also apply to an amended designa-  
2 tion.

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

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

15 “(c) JUDICIAL REVIEW OF DESIGNATION.—

16 “(1) IN GENERAL.—Not later than 30 days  
17 after publication in the Federal Register of a des-  
18 ignation, an amended designation, or a determina-  
19 tion in response to a petition for revocation, the des-  
20 ignated group, club, organization, or association of 5  
21 or more persons may seek judicial review in the  
22 United States Court of Appeals for the District of  
23 Columbia Circuit.

24 “(2) BASIS OF REVIEW.—Review under this  
25 subsection shall be based solely upon the administra-

1        tive record, except that the Government may submit,  
2        for ex parte and in camera review, classified infor-  
3        mation used in making the designation, amended  
4        designation, or determination in response to a peti-  
5        tion for revocation.

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

10            “(A) arbitrary, capricious, an abuse of dis-  
11        cretion, or otherwise not in accordance with  
12        law;

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

15            “(C) in excess of statutory jurisdiction, au-  
16        thority, or limitation, or short of statutory  
17        right;

18            “(D) lacking substantial support in the ad-  
19        ministrative record taken as a whole or in clas-  
20        sified information submitted to the court under  
21        paragraph (2); or

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

24            “(4) JUDICIAL REVIEW INVOKED.—The pend-  
25        ency of an action for judicial review of a designation,

1 amended designation, or determination in response  
2 to a petition for revocation shall not affect the appli-  
3 cation of this section, unless the court issues a final  
4 order setting aside the designation, amended des-  
5 ignation, or determination in response to a petition  
6 for revocation.

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

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

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

14 “(3) the term ‘relevant committees’ means the  
15 Committees on the Judiciary of the Senate and of  
16 the House of Representatives; and

17 “(4) the term ‘Secretary’ means the Secretary  
18 of Homeland Security, in consultation with the At-  
19 torney General.”.

20 (2) CLERICAL AMENDMENT.—The table of con-  
21 tents for such Act is amended by inserting after the  
22 item relating to section 219 the following:

“Sec. 220. Designation of criminal gang.”.

23 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-  
24 ATION.—

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

8           (2) INELIGIBILITY FOR ASYLUM.—Section  
 9       208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))  
 10      (as amended by section 201 of this Act) is further  
 11      amended—

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

14                   (B) by redesignating clause (vi) as clause  
 15      (vii); and

16                   (C) by inserting after clause (v) the fol-  
 17      lowing:

18                           “(vi) the alien is described in section  
 19                           212(a)(2)(J)(i) or section 237(a)(2)(G)(i);  
 20                           or”.

21      (g) TEMPORARY PROTECTED STATUS.—Section 244  
 22      of such Act (8 U.S.C. 1254a) is amended—

23           (1) by striking “Attorney General” each place  
 24      it appears and inserting “Secretary of Homeland Se-  
 25      curity”;



1 (2) in subparagraph (c)(2)(B)—

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

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

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

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

10 (3) in subsection (d)—

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

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

17 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section  
18 101(a)(27)(J)(iii) of the Immigration and Nationality Act  
19 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

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

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

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

24 “(III) no alien who is, or at any  
25 time has been, described in section

1                   212(a)(2)(J) or section 237(a)(2)(G)  
2                   shall be eligible for any immigration  
3                   benefit under this subparagraph;”.

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

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

11                   (2) the alien’s presence in the United States is  
12           required by the Government with respect to such as-  
13           sistance.

14           (j) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on the date of the enactment  
16 of this Act and shall apply to acts that occur before, on,  
17 or after the date of the enactment of this Act.

○