

109TH CONGRESS
1ST SESSION

H. R. 100

To amend the Immigration and Nationality Act to modify provisions relating to judicial review of orders of removal.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

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

A BILL

To amend the Immigration and Nationality Act to modify provisions relating to judicial review of orders of removal.

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 “Citizens and Legal
5 Immigration Act”.

6 **SEC. 2. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

7 (a) IN GENERAL.—Section 242 of the Immigration
8 and Nationality Act (8 U.S.C. 1252) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2)—

1 (i) in subparagraph (A), by inserting
2 “(statutory or nonstatutory), including sec-
3 tion 2241 of title 28, United States Code,
4 or any other habeas corpus provision, and
5 sections 1361 and 1651 of such title” after
6 “Notwithstanding any other provision of
7 law”;

8 (ii) in each of subparagraphs (B) and
9 (C), by inserting “(statutory or nonstatu-
10 tory), including section 2241 of title 28,
11 United States Code, or any other habeas
12 corpus provision, and sections 1361 and
13 1651 of such title, and except as provided
14 in subparagraph (D)” after “Notwith-
15 standing any other provision of law”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(D) JUDICIAL REVIEW OF CERTAIN
19 LEGAL CLAIMS.—Nothing in subparagraph (B)
20 or (C) shall be construed as precluding review
21 of constitutional claims or pure questions of law
22 raised upon a petition for review filed with an
23 appropriate court of appeals in accordance with
24 this section.”; and

25 (B) by adding at the end the following:

1 “(4) CLAIMS UNDER THE UNITED NATIONS
2 CONVENTION.—Notwithstanding any other provision
3 of law (statutory or nonstatutory), including section
4 2241 of title 28, United States Code, or any other
5 habeas corpus provision, and sections 1361 and
6 1651 of such title, a petition for review filed with an
7 appropriate court of appeals in accordance with this
8 section shall be the sole and exclusive means for ju-
9 dicial review of any cause or claim under the United
10 Nations Convention Against Torture and Other
11 Forms of Cruel, Inhuman, or Degrading Treatment
12 or Punishment, except as provided in subsection (e).

13 “(5) EXCLUSIVE MEANS OF REVIEW.—Notwith-
14 standing any other provision of law (statutory or
15 nonstatutory), including section 2241 of title 28,
16 United States Code, or any other habeas corpus pro-
17 vision, and sections 1361 and 1651 of such title, a
18 petition for review filed with an appropriate court of
19 appeals in accordance with this section shall be the
20 sole and exclusive means for judicial review of an
21 order of removal entered or issued under any provi-
22 sion of this Act, except as provided in subsection (e).
23 For purposes of this Act, in every provision that lim-
24 its or eliminates judicial review or jurisdiction to re-
25 view, the terms ‘judicial review’ and ‘jurisdiction to

1 review' include habeas corpus review pursuant to
2 section 2241 of title 28, United States Code, or any
3 other habeas corpus provision, sections 1361 and
4 1651 of such title, and review pursuant to any other
5 provision of law (statutory or nonstatutory).”;

6 (2) in subsection (b)—

7 (A) in paragraph (3)(B), by inserting
8 “pursuant to subsection (f)” after “unless”;
9 and

10 (B) in paragraph (9), by adding at the end
11 the following: “Except as otherwise provided in
12 this section, no court shall have jurisdiction, by
13 habeas corpus under section 2241 of title 28,
14 United States Code, or any other habeas corpus
15 provision, by section 1361 or 1651 of such title,
16 or by any other provision of law (statutory or
17 nonstatutory), to review such an order or such
18 questions of law or fact.”; and

19 (3) in subsection (g), by inserting “(statutory
20 or nonstatutory), including section 2241 of title 28,
21 United States Code, or any other habeas corpus pro-
22 vision, and sections 1361 and 1651 of such title”
23 after “notwithstanding any other provision of law”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall take effect upon the date of the enact-

1 ment of this Act and shall apply to cases in which the
2 final administrative removal order was issued before, on,
3 or after the date of the enactment of this Act.

4 (c) TRANSFER OF CASES.—If an alien’s case, brought
5 under section 2241 of title 28, United States Code, and
6 challenging a final administrative removal order, is pend-
7 ing in a district court on the date of the enactment of
8 this Act, then the district court shall transfer the case (or
9 the part of the case that challenges the removal order)
10 to the court of appeals for the circuit in which a petition
11 for review could have been properly filed under section 242
12 of the Immigration and Nationality Act (8 U.S.C. 1252),
13 as amended by this section. The court of appeals shall
14 treat the transferred case as if it had been filed pursuant
15 to a petition for review under such section 242, except that
16 subsection (b)(1) of such section shall not apply.

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