

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2018

Mr. ZELDIN introduced the following bill; which was referred to the  
Committee on the Judiciary

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## 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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