

116TH CONGRESS
2D SESSION

S. 4238

To amend title 18, United States Code, relating to criminal street gangs,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2020

Mrs. LOEFFLER (for herself, Mrs. BLACKBURN, and Mr. COTTON) introduced
the following bill; which was read twice and referred to the Committee
on the Judiciary

A BILL

To amend title 18, United States Code, relating to criminal
street gangs, 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 “Cracking Down on
5 Gangs and Deporting Criminals Act of 2020”.

6 **SEC. 2. CRIMINAL STREET GANGS.**

7 Section 521 of title 18, United States Code, is
8 amended—

9 (1) in subsection (b), by striking “the cir-
10 cumstances” and inserting “a circumstance”;

1 (2) in subsection (c)—

2 (A) in paragraph (3), by striking “and” at
3 the end;

4 (B) by redesignating paragraph (4) as
5 paragraph (5);

6 (C) by inserting after paragraph (3) the
7 following:

8 “(4) an offense under section 1962; and”; and

9 (D) in paragraph (5), as so redesignated,
10 by striking “or (3)” and inserting “(3), or (4)”;
11 (3) in subsection (d)—

12 (A) by striking paragraphs (1) and (2) and
13 inserting the following:

14 “(1)(A) participates in a criminal street gang
15 with knowledge that its members engage in or have
16 engaged in a continuing series of offenses described
17 in subsection (c);

18 “(B) intends to promote or further the felo-
19 nious activities of the criminal street gang or main-
20 tain or increase his or her position in the gang;

21 “(C) intends to acquire or maintain, directly or
22 indirectly, through illegal activity by or on behalf of
23 a criminal street gang, or proceeds derived there-
24 from any interest in or control of any real or per-
25 sonal property of any nature, including money;

1 “(D) occupies a position of organizer, super-
2 visory position, or any other position of management
3 or leadership with regard to a criminal street gang;

4 “(E) intends to cause, encourage, solicit, re-
5 cruit, or coerce another to become a member or as-
6 sociate of a criminal street gang, to participate in a
7 criminal street gang;

8 “(F) communicates, directly or indirectly, with
9 another person any threat of injury or damage to
10 the person or property of the other person or of any
11 associate or relative of the other person with the in-
12 tent to deter such person from assisting a member
13 or associate of a criminal street gang to withdraw
14 from such criminal street gang;

15 “(G) communicates, directly or indirectly, with
16 another person any threat of injury or damage to
17 the person or property of the other person or of any
18 associate or relative of the other person with the in-
19 tent to punish or retaliate against such person for
20 having withdrawn from a criminal street gang;

21 “(H) communicates, directly or indirectly, with
22 another person any threat of injury or damage to
23 the person or property of the other person or of any
24 associate or relative of the other person with the in-
25 tent to punish or retaliate against such person for

1 refusing to or encouraging another to refuse to be-
2 come or obtain the status of a member or associate
3 of a criminal street gang;

4 “(I) communicates, directly or indirectly, with
5 another person any threat of injury or damage to
6 the person or property of the other person or of any
7 associate or relative of the other person with the in-
8 tent to punish or retaliate against such person for
9 providing statements or testimony against criminal
10 street gangs or any criminal street gang member or
11 associate; or

12 “(J) communicates, directly or indirectly, with
13 another person any threat of injury or damage to
14 the person or property of the other person or of any
15 associate or relative of the other person with the in-
16 tent to intimidate, deter, or prevent such person
17 from communicating to any law enforcement or cor-
18 rections officer, prosecuting attorney, or judge infor-
19 mation relating to criminal street gangs, or criminal
20 street gang members or associates; and”; and

21 (B) by redesignating paragraph (3) as
22 paragraph (2); and

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

24 “(e) CRIMINAL STREET GANG DATABASE.—

1 “(1) IN GENERAL.—The Attorney General shall
2 establish and maintain a national criminal street
3 gang database to facilitate the exchange of informa-
4 tion between Federal, State, and local law enforce-
5 ment agencies, prosecution and corrections agencies,
6 offices, and departments.

7 “(2) REPORTING OF CRIMINAL STREET GANG
8 DATA.—Each State and unit of local government
9 that receives Federal funds under subpart 1 of part
10 E of title I of the Omnibus Crime Control and Safe
11 Streets Act of 1968 (34 U.S.C. 10151 et seq.) shall
12 submit to the Attorney General such information re-
13 lating to criminal street gangs as the Attorney Gen-
14 eral may require to be included in the criminal street
15 gang database established under paragraph (1).

16 “(f) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—
17 If the sentence of an alien is enhanced under this section,
18 or the sentence is eligible for enhancement regardless of
19 whether such enhancement is actually applied or sought,
20 the Attorney General shall report such sentence enhance-
21 ment to the Department of Homeland Security, and the
22 alien shall be subject to removal in accordance with section
23 241 of the Immigration and Nationality Act (8 U.S.C.
24 1231).

1 “(g) REPORTING.—Not later than 1 year after the
2 date of enactment of the Cracking Down on Gangs and
3 Deporting Criminals Act of 2020, and each year there-
4 after, each United States Attorney shall submit to the
5 Committee on the Judiciary of the Senate and the Com-
6 mittee on the Judiciary of the House of Representatives
7 a report detailing the—

8 “(1) number of cases for which a sentence en-
9 hancement was sought under this section; and

10 “(2) the actual sentences imposed in the cases
11 described in paragraph (1).”.

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