

the liberal view they want to promote with their readers and viewers.

LET'S TRY AND MAKE AMERICA
FAIRER

(Mr. SUOZZI asked and was given permission to address the House for 1 minute.)

Mr. SUOZZI. Mr. Speaker, I rise today in support of the passage of the Dream Act, and I request my Democratic and Republican colleagues to stand together to try and address this very important issue in our country.

The issue of undocumented immigrants has been plaguing this country for almost 30 years now, going back to the 1980s, when people flowed over in the thousands from El Salvador during the death squads and the civil wars during that time.

As the mayor of the city of Glen Cove back in the 1990s, we dealt with this issue in my city, on one side people saying, "Get those people out of here," on the other side people saying, "They are just trying to live the American Dream like your father did." My father emigrated from Italy. I am a first-generation American. "They are just trying to live the American Dream like your family did, trying to work hard and live a better life here in this country."

When dealing with these difficult questions, we have to rely on the fundamental principles of this country, namely, that all men and women are created equal—not all men and women with a green card or all men and women with a passport, but all men and women are created equal and are entitled to be treated with human respect and dignity.

When looking at the DREAMers, we are talking about people who came to this country under 17 years of age, who have lived a productive life, who have either graduated from high school or received a GED and have now either gone to college or are serving in the military or have been working for the past 3 years and have no criminal background.

Let's try and make this country fairer. Let's try and make ourselves the model for the rest of the world to follow and lift up these people who are productive members of our community.

□ 0915

CRIMINAL ALIEN GANG MEMBER
REMOVAL ACT

Mr. LABRADOR. Mr. Speaker, pursuant to House Resolution 513, I call up the bill (H.R. 3697) to amend the Immigration and Nationality Act with respect to aliens associated with criminal gangs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DUNCAN of Tennessee). Pursuant to House Resolution 513, the amendment printed in House Report 115-307 is

adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3697

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 "Criminal Alien Gang Member Removal Act".

SEC. 2. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.

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

"(53) The term 'criminal gang' means an ongoing group, club, organization, or association of 5 or more persons that has as one of its primary purposes the commission of 1 or more of the following criminal offenses and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the Attorney General, as meeting these criteria. The offenses described, whether in violation of Federal or State law or foreign law and regardless of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, are the following:

"(A) A 'felony drug offense' (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(B) An offense 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).

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

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

"(E) Any conduct punishable under sections 1028 and 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery, and trafficking in persons), section 1951 of such title (relating to interference with commerce by threats or violence), 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).

"(F) A conspiracy to commit an offense described in subparagraphs (A) through (E)."

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

"(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien is deportable who—

"(i) is or has been a member of a criminal gang (as defined in section 101(a)(53)); or

"(ii) has participated in the activities of a criminal gang (as so defined), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang."

(d) DESIGNATION.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

"DESIGNATION OF CRIMINAL GANG

"SEC. 220. (a) DESIGNATION.—

"(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, may designate a group, club, organization, or association of 5 or more persons as a criminal gang if the Secretary finds that their conduct is described in section 101(a)(53).

"(2) PROCEDURE.—

"(A) NOTIFICATION.—Seven days before making a designation under this subsection, the Secretary 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, club, organization, or association of 5 or more persons under this subsection and the factual basis therefor.

"(B) PUBLICATION IN THE FEDERAL REGISTER.—The Secretary shall publish the designation in the Federal Register seven days after providing the notification under subparagraph (A).

"(3) RECORD.—

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

"(B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

"(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 (c).

"(B) REVIEW OF DESIGNATION UPON PETITION.—

"(i) IN GENERAL.—The Secretary shall review the designation of a criminal gang under the procedures set forth in clauses (iii) and (iv) if the designated group, club, organization, or association of 5 or more persons 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 group, club, organization, or association of 5 or more persons 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 group, club, organization, or association of 5 or more persons 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 group, club, organization, or association of 5 or more persons that submits a petition for revocation under this subparagraph of its designation as a criminal gang must provide evidence in that petition that it is not described in section 101(a)(53).

“(iv) DETERMINATION.—

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

“(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

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

“(IV) PROCEDURES.—Any revocation by the Secretary 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 Secretary shall review the designation of the criminal 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 subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

“(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish 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 revoke a designation made under paragraph (1).

“(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

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

“(i) the group, club, organization, or association of 5 or more persons that has been designated as a criminal gang is no longer described in section 101(a)(53); or

“(ii) the national security or the law enforcement interests 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 TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (2) 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.

“(b) AMENDMENTS TO A DESIGNATION.—

“(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the group, club, organization, or association of 5 or more persons has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another group, club, organization, or association of 5 or more persons.

“(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Paragraphs (2), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

“(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

“(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c) of this section.

“(c) JUDICIAL REVIEW OF DESIGNATION.—

“(1) IN GENERAL.—Not later than 30 days after publication in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated group, club, organization, or association of 5 or more persons may seek judicial review 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, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation, amended designation, or determination in response to a petition for revocation.

“(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation, amended designation, or determination in response to a petition for revocation 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 in classified information submitted to the court under paragraph (2); 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, amended designation, or determination in response to a petition for revocation shall not affect the application of this section, unless the court issues a final order setting aside the designation, amended designation, or determination in response to a petition for revocation.

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

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

“(2) the term ‘national security’ means the national defense, foreign relations, or economic interests of the United States;

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

“(4) the term ‘Secretary’ means the Secretary of Homeland Security, in consultation with the Attorney General.”.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 219 the following:

“Sec. 220. Designation.”.

(e) MANDATORY DETENTION OF CRIMINAL GANG MEMBERS.—

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

(A) in subparagraph (C), by striking “or” at the end;

(B) in subparagraph (D), by inserting “or” at the end; and

(C) by inserting after subparagraph (D) the following:

“(E) is inadmissible under section 212(a)(2)(J) or deportable under section 217(a)(2)(G).”.

(2) 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 paragraph (1).

(f) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(1) 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)(G)(i) or who is” after “to an alien”.

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

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

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

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

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

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

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (c)(2)(B)—

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

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

(C) by adding at the end the following:

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

(3) in subsection (d)—

(A) by striking paragraph (3); and

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

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

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

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

(3) by adding at the end the following:

“(III) no alien who is, or at any time has been, described in section 212(a)(2)(J) or section 237(a)(2)(G) shall be eligible for any immigration benefit under this subparagraph;”.

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

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

(2) the alien's presence in the United States is required by the Government with respect to such assistance.

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

The SPEAKER pro tempore. The gentleman from Idaho (Mr. LABRADOR) and the gentlewoman from California (Ms. LOFGREN) each will control 30 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. LABRADOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3697.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. LABRADOR. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 3697, the Criminal Alien Gang Member Removal Act. I introduced this bill with Chairman GOODLATTE and Representatives COMSTOCK and KING for a very simple reason: the United States is facing an ever-growing danger from transnational gangs, and U.S. Immigration and Customs Enforcement, better known as ICE, needs more tools to deal with this danger.

The Federal Government's most important responsibility is the safety and security of the American people. However, we are not fulfilling that responsibility when we allow gangs to illegally enter our country with the express purpose of victimizing innocent Americans.

In communities across our country, transnational gangs are using violence and the threat of violence to create a climate of fear that allows them to operate with near impunity. They regularly target local business owners and law enforcement officials. Innocent bystanders, those unlucky enough to be in the wrong place at the wrong time, are also paying a price.

According to ICE, these gangs “have grown to become a serious threat in American communities across the Nation—not only in cities, but increasingly in suburban and even rural areas. Entire neighborhoods and sometimes whole communities are held hostage by and subjected to their violence.”

Furthermore, ICE has found that, “membership of these violent transnational gangs is comprised largely of foreign-born nationals.”

The most infamous transnational gang, of course, is MS-13, which entered the U.S. in the 1980s. Today, it has over 10,000 gang members operating inside the United States alone. At every level, our enforcement officials are working to curb this growing threat with large-scale enforcement actions. These include Operation New Dawn, which netted almost 1,100 arrests over a 6-week period.

However, we all know that prosecution of criminal gang members is notoriously difficult. This is because victims and witnesses of gang crime are often reluctant to testify because of the quite reasonable fear of retaliation against them or their families, thus many gang members are never convicted of the crimes they have committed.

The question is often asked: Why should law-abiding Americans have to wait until an alien gang member has committed a deportable offense? Why not deport the gang member before he has a chance to victimize more innocent people? The answer is that current immigration law contains dangerous loopholes that alien gang members are exploiting.

Currently, an alien may not be deported, even if he is known to be a member of a criminal gang or participating in gang activities. ICE must wait for the gang member to be first convicted of a deportable offense.

H.R. 3697 changes that. For the first time, ICE will be permitted to place alien gang members into removal proceedings on the grounds of being criminal gang members. Our bill sets out clear specifications for what crimes are considered to be gang related, relying on longstanding Federal criminal law to determine what a gang or group consists of.

In addition, our bill permits the Secretary of Homeland Security, using procedures already used by the Secretary of State, to designate a gang as a criminal gang. This would be done in a transparent way through notification to Congress and publication in the Federal Register and with meaningful judicial review.

The conclusive decision as to whether to place an alien in removal proceedings would rest with the Department of Homeland Security. When an alien is charged, the charge must be proven by evidence on the record in immigration court.

I have heard some uneasiness that ICE will use these provisions to charge any alien they encounter with gang activity. Our bill does not allow that. As a former immigration attorney, I know the importance of due process and know how important it is for illegal immigrants and for Americans and everyone within the jurisdictions of the immigration court to receive due process. I can tell you that our bill is consistent with due process.

Under H.R. 3697, ICE has the burden of proof when charging an alien with a deportable offense. While the alien has

the burden of proof when they are inadmissible, a denial of gang membership should be sufficient to shift the burden back to the government. The government must convince an immigration judge of its case. Of course, an alien ordered removed as a gang member has every right to appeal that order to the Board of Immigration Appeals and then to the Federal courts.

Ultimately, H.R. 3697 is about providing law enforcement with the necessary tools to combat gang activity in every community in our country. This is essential if we, as elected officials, are committed to our responsibility to keep the American people safe and secure. That is the purpose of H.R. 3697.

This is the third time this year the House is holding a floor vote on portions of the Davis-Oliver Act, which I introduced back in May, to make our country safer through stronger immigration enforcement.

I am proud that the House passed the first two bills that came from Davis-Oliver, Kate's Law and the No Sanctuary for Criminals Act, and I encourage my colleagues to vote for H.R. 3697 as well.

We must take action now or watch crime rates rise in our Nation. There is no place in our country for criminal alien gang members, and any legislation which makes it easier to deport them deserves the support of every Member of this body.

Mr. Speaker, I urge all of my colleagues to support this legislation, and I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 3697. Gang members and serious criminals should not be granted admission to the United States. That is not a controversial position. I think almost every Member of Congress, Democrat or Republican, agrees with that. It is our highest priority to protect the safety of the American people. That is a duty I think we all take seriously, but this bill does something other than that.

The title of the bill is the Criminal Alien Gang Member Removal Act, and, as we have seen in the past, there are times when the name of a bill is not always reflected in the actual proposed language of the statute, and that is true in this case.

First, section 2(a) of the bill defines criminal gang as “an ongoing group, club, organization, or association of five or more persons that has as one of its primary purposes the commission of one or more” of a wide range of offenses. This may seem reasonable until you look at the offenses listed.

These offenses could sweep in many people that no reasonable person would think of as a gang member—for example, one of the offenses relates to the harboring of undocumented immigrants. This statute includes people who give shelter to, transport, or provide other kinds of aid to undocumented immigrants. That means that,

under this bill, a religious organization that aids undocumented immigrants could be a criminal gang.

This isn't just theoretical. During the 1980s, members of the faith community were repeatedly criminally prosecuted for providing transportation to undocumented immigrants. In one case, the FBI even infiltrated a Bible study group to learn about the group's plan to support undocumented immigrants. Under this bill, DHS would have expanded authority to go after all such groups as criminal gangs. In one fell swoop, it could turn nuns into gang members.

The bill also refers to felony drug offense, which would include the repeated possession of marijuana. In California, my State, along with several other States, voters decided to decriminalize marijuana—first, for medical uses, then later for broader uses. Under this bill, a group that regularly gets together to use marijuana that is legal under State law would still be committing a felony under Federal law and would be a criminal gang. That could include groups of people who are using marijuana for medicinal purposes to treat epilepsy or cancer who are taking marijuana consistent with State law.

Second, the bill authorizes DHS to deny admission or to deport any immigrant, including one who has no criminal history or gang affiliation whatsoever, so long as DHS merely believes the person is associated with such a group.

Sections 2(b) and 2(c) of the bill expressly authorize DHS officers and immigration judges to deport an immigrant on nothing more than a reason to believe that the individual has been a member of a gang or has participated in the activities of a gang as defined under these rather broad provisions. There is no need for conviction or even an arrest. All DHS needs is a belief that the individual has assisted any group of five or more people that DHS believes has committed one of these long list of offenses.

This belief could be as minimal as the color of a person's shirt, the neighborhood they live in, or the individuals in their family. This is not just unreasonable, it is probably unconstitutional. Chairman GOODLATTE had a self-actualizing amendment when the rule was adopted to change the evidentiary standard. I think it recognizes the problem with the bill.

The amendment really doesn't cure the problem with the breadth of the criminal gang definition, and it doesn't change the standard that applies to people seeking admission to the country, including those who are seeking to reunite with U.S. citizen spouses, parents, and children.

Just this week, I met with actual police officers who asked me to do what I could to defeat this unwise bill. They know, because they are out on the front lines, that gangs are a real problem, and they told me that bills like

this, which could turn religious individuals, nuns, cancer victims into targets, is just going to get in their way as police officers.

If we want to keep America safe and admit immigrants who do not have a felony record, I would suggest that we consider the bipartisan Dream Act, H.R. 3440. This bill would provide a path to legal permanent residence for 800,000 young people who were raised in America, who consider this to be their home, who represent the very best of our country.

Instead of debating whether we should allow ICE officers to target religious workers, we should focus on what really makes this country great.

I would like to note that there has been much discussion about the drafting of this bill, and at the Rules Committee just last night, Republicans defended the bill by asserting that the broad provisions would not be abused by ICE officers. Even if they could target the nuns, they wouldn't do that. Even if they could target the cancer victims or the teenagers smoking marijuana after school as gang members, they wouldn't do that.

□ 0930

Now, I am not suggesting that the teenagers smoking marijuana after school is a good thing. But it is not MS-13. And that is what we are trying to make a distinction here between, a gang abatement bill and garden-variety activity that we may not like.

One really very good and very thoughtful Member on the other side of the aisle suggested that, if there is a problem with the bill, we will just come back and fix it. Here is why that is a problem: We know that when we draft something in a poor manner, it often goes on to be enforced and we never get around to fixing it.

I will give an example. We passed years ago, and I objected at the time—Henry Hyde was chairman of the committee—a provision that barred people from gaining status if they provided material support to terrorists.

Well, that sounds like a good idea, but what does it mean?

It turns out that material support—which was never qualified to include support given under duress or given in the ordinary course of a commercial activity—has now been used to bar people who are not terrorists, who didn't give material support.

I will give you an example. A group of women called the Tortilla Terrorists are women who were threatened with their lives and made tortillas because they were threatened with death by guerrilla actors. Now, they were denied asylum because of the tortillas, hence the name the Tortilla Terrorists.

I think most of us would agree that is not terrorism. Yet, we drafted the bill in such a way that the Department felt that they had to enforce it in that way, and we have never gone back to it.

So to think that somehow if we write a law poorly, it is going to be fixed in

the administration, that is just wrong. We should step back from this. We should work together. This was just introduced last week.

Now, I know the SAFE Act had hearings years ago, but I think we would be better off if we sat down together, if we reasoned together, if we worked through the defects in this draft, and came up with a bill that really targeted MS-13 members, something that we could all support and that well-served our country.

I will just say that Sister Simone Campbell, one of the leading nuns in America, explained her opposition to this bill. She said:

The bill's harboring provisions under INA 274 are so sweeping that religious workers who provide shelter, transportation, or support to undocumented immigrants could be found liable of criminal activity. This statute has been used against religious workers in the past, and the bill tries to make it a weapon for the future.

Let's listen to the nuns like we did in school, and step back, redraft this bill, and oppose this poorly crafted measure today.

Mr. Speaker, I reserve the balance of my time.

Mr. LABRADOR. Mr. Speaker, I yield 5 minutes to the gentlewoman from Virginia (Mrs. COMSTOCK), the lead sponsor of this bill.

Mrs. COMSTOCK. Mr. Speaker, early this summer, on a Friday night, just about 30 miles from this Capital, I went on a ride-along in my district with our Northern Virginia Regional Gang Task Force.

A young boy standing on the sidewalk along Sterling Boulevard in Sterling, Virginia, caught the eye of a veteran member of our task force. The young man on the street looked about 15 or 16 years old, but he was actually a 22-year-old member of the transnational violent street gang known as MS-13. He was covered in MS-13 gang tattoos—on his chest, his back, his feet.

It turned out, he had been in jail in El Salvador for murder as a teenager, and he had already been deported from the U.S. twice for engaging in violent crimes here.

Three other of the estimated thousands of MS-13 gang members that are just here in our Capital region were also picked up that night. There have been cases in northern Virginia where a suspected member of the MS-13 gang has been deported five times, yet returned again to continue their gang activity.

At a town festival in Herndon this year, the gang task force identified—because they go to these events and they see these people—an estimated 200 to 300 suspected gang members milling about among the families who were getting cotton candy and hot dogs for their kids. They are right there looking to recruit in their own communities.

Mr. Speaker, since November 2016, at least eight murders have been committed and tied to MS-13 and other

gangs in our area, representing a 166 percent increase over the last year in the northern Virginia region.

An MS-13-linked vicious murder occurred in November 2015. Of course, I should acknowledge that they are all vicious when you are talking about MS-13. This happened on an Alexandria playground in the evening just about 8 miles from this Capital, and it resulted in the death of 24-year-old Jose Luis Ferman Perez. He was nearly decapitated in the machete attack. His body was left on the playground and was found by a woman walking her dog the next morning. It could have been one of the kids playing on the playground finding that.

The Washington Post has highlighted how the 2014 border surge has contributed to the MS-13 problem, saying: "The violent street gang is on the rise in the United States, fueled, in part, by the surge in unaccompanied minors."

A recent Washington Post article documented the case of gang members who videotaped the murder of a 15-year-old girl, Damaris Reyes Rivas, who was savagely beaten by multiple people, and repeatedly stabbed by all of these gang members. The video of this was intended to be sent to MS-13 gang leadership in El Salvador to confirm that this greenlit murder had been carried out.

Tragically, MS-13 targets and preys upon their own community, on young people who may not have much of a family structure around them. Sadly, these children and young people were actually fleeing MS-13 in their own countries of El Salvador, Honduras, or Guatemala, only to come here and be targeted.

There was one case that, fortunately, the Northern Virginia Regional Gang Task Force was able to intercept, where a brother was trying to enlist his own brother to join the MS-13 gang. And when he refused to, he put a hit out on him. Fortunately, the gang task force was able to stop that.

We cannot allow this to stand. Mr. Speaker, the Northern Virginia Regional Gang Task Force is battling this problem in our region, but they still need more resources. In our appropriations process, we have directed more resources for our regional task forces. I have personally talked to Deputy Attorney General Rod Rosenstein, who is very familiar with this MS-13 problem, having been a U.S. attorney in the Maryland region.

Our regional task force is comprised of 13 local, State and Federal law enforcement agencies, and the task force has a three-pronged approach: education, intervention and prevention, and enforcement. We need to provide support on all three of these fronts.

I witnessed firsthand the exhausting work of the task force; the technology they utilize on the streets that was able to immediately identify just with fingerprints the background of this gang member that they were able to arrest; the detailed knowledge they

have of our communities and our neighborhoods; the positive relationships they have with the people in these communities, the very people that are being victimized; and the challenges they face with this problem that has returned to our area.

That is why I sponsored H.R. 3697, the Criminal Alien Gang Member Removal Act, with my colleagues, so it will provide additional tools to law enforcement. It will ensure that when ICE positively identifies a known alien gang member, they may act immediately. This legislation identifies gang membership and participation in gang activity as grounds for inadmissibility and removability. We don't have to wait until these brutal killers wield their machetes or leave another body on a children's playground.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LABRADOR. Mr. Speaker, I yield an additional 1 minute to the gentleman.

Mrs. COMSTOCK. This is a marked improvement over current law where ICE must wait for specific convictions before removal proceedings can commence. The bill preserves, as my colleague has already identified, all the due process and appellate rights afforded to any alien facing deportation.

An immigration judge must be convinced that the evidence in the record supports the finding. I encourage support of this legislation today, which will strengthen and enforce our laws against known violent gang members. I also will continue to work with my colleagues on other matters, such as the bill I introduced earlier this summer, to provide additional resources to our regional gang task forces for their education, intervention, and enforcement efforts.

Ms. LOFGREN. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. NADLER), my colleague on the Judiciary Committee.

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, it has been said about this body that if you invent a nice enough title for a bill, it doesn't matter what you write in the bill because all people know is what the title is. This bill is a good example of that.

Who is in favor of criminal alien gangs?

No one. But this bill has received no committee consideration in which the questions could have been asked and the answers given to make sure that the bill would do what its sponsors say it does.

But this legislation wouldn't provide decent protections against gang violence. It would shred due process protections and would allow deportation of innocent immigrants based on the flimsiest of evidence.

It would establish a Star Chamber-like process for designating criminal gangs that would provide virtually no opportunity for them to contest such a designation. Once a group is designated

as a gang, an immigrant who is determined to be a member of that gang—determined under undefined procedures and standards—would be almost assured of being deported and would be subject to mandatory detention while awaiting removal.

The procedures under this bill would be laughable if they did not have such deadly consequences for so many innocent people. Suppose there are some people in my neighborhood that I think are up to no good. Maybe I have good evidence that they are committing crimes, or maybe I just don't like them. Either way, I submit a tip to Homeland Security that the group is engaged in activity that qualifies as a criminal gang under this bill.

Then, based on undefined and unknown procedures, the DHS can designate that group as a criminal gang. In doing so, it would amass some sort of administrative record, which is also completely undefined in the bill, but we know it can include secret evidence. No notice would be given to the group that is under review, and no opportunity would be given to present evidence contesting the designation; no exculpatory evidence.

After designation, there is a process for judicial review; but unless the group has the habit of scouring the Federal Register, it would have no idea that it has been labeled a gang and that it needs to go to court in 30 days. If, somehow, the group does learn of its designation, it has just 30 days to contest it, and only in a Federal Court of Appeals in Washington, D.C.

That review, however, would be based entirely on the administrative record amassed by the government. The group would have no opportunity to submit evidence to rebut the designation, which renders the entire review process meaningless. That is not due process under the Constitution. That is a sort of stacked process you would expect in a banana republic or in Russia.

It gets even worse. Under this bill, any alien is deportable if he or she is or has been a member of a designated gang or has participated in the gang's activities, knowing that would further its illegal activity.

But who determines that a person is a member of a gang? By what procedure? In what forum or what court? Using what standard?

The bill, given the Goodlatte amendment, does not say.

A person need not have been convicted or even charged with a crime to be deportable under this bill; and even when they are in removal proceedings, they would not be permitted to challenge the gang designation that landed them in those proceedings. Thus, we will have people deported on the basis of an unfair and secret process, with no notice and no meaningful opportunity to contest the basis for the deportation. That turns due process completely on its head.

Keeping out members of MS-13 and other deadly gangs is a worthy goal,

but this bill would not do that. It would have disastrous consequences for thousands of people each year who may or may not be members of a gang, who may or may not have any evidence against them, who will inevitably be caught up in its hash and overbroad provisions.

Mr. Speaker, just last week, President Trump upended the lives of 800,000 DREAMers who now face the possibility of being dragged away from the only country they know. Our highest priority should be providing these young, undocumented Americans the legal status they need to continue serving our Nation and being productive members of their communities.

I notice that the Speaker has said that, while he supports relief from the DREAMers, that the bill has to go through a committee.

Why didn't this bill have to go through a committee?

Instead, the Republican majority seeks to distract us from the plight of the DREAMers by returning to its mass deportation agenda based on the fear and dehumanization of immigrants.

This bill brings shame upon this House and this Nation's tradition of due process and fundamental fairness.

Mr. Speaker, I urge my colleagues to reject this unconstitutional and unconscionable legislation.

Mr. LABRADOR. Mr. Speaker, I know we spent a lot of time in committee talking about a lot of different issues, but maybe the gentleman forgets that we had 3 whole days of hearings on the Davis-Oliver Act, which this bill was included in, and many arguments were made against the Davis-Oliver Act. Most of the arguments that are being made today were not made against this portion of the act.

Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. KING).

□ 0945

Mr. KING of New York. Mr. Speaker, I thank the gentleman from Idaho for yielding. I certainly commend Mrs. COMSTOCK for the outstanding job she has done on this.

I stand here in strong support of this bill. It is absolutely essential that this Congress does everything it can to eradicate and destroy MS-13. It would be shameful not to.

MS-13 has turned my district into killing fields. In the last year and a half, 17 innocent young people have been slaughtered with machetes and knives by MS-13. These are all young people, and these are children of legal and illegal immigrants documented and undocumented. It is the immigrant community that is being turned into a chamber of horrors by MS-13. Children are afraid to go to school; their parents are afraid to allow their kids to go out at night.

There have been 270 arrests in the last year alone. MS-13 is terrorizing communities in my district within 15 to 20 minutes of my home.

I am proud that this bill has been endorsed by the Sergeants Benevolent Association of the NYPD.

Also, when I talk about 17 murders, it is exactly 1 year ago this week that two young teenage girls, Nisa Mickens and Kayla Cuevas, both constituents of mine, were found slaughtered, their bodies desecrated, mutilated, and torn apart by MS-13 because they happened to be in the wrong place at the wrong time—no gang connections, nothing whatsoever.

So this is something which has required extensive coordination between the Suffolk County Police Department, ICE, Homeland Security Investigations, Homeland Security, FBI task forces, and the U.S. Attorney's Office all working around the clock to try to eradicate this evil.

But more has to be done, and that is what this bill is about. We cannot allow gang members to be taking advantage of loopholes in the immigration laws. To me, nothing could be more shameful than for us not to do our job. Nothing would be more violative of our role under the Constitution to protect people from all enemies foreign and domestic than for us not to pass legislation such as this. This is absolutely essential. This isn't theoretical, and this is not hypothetical.

For those who are concerned about immigrants and those who are concerned about DACA—and I support DACA—and those who are supportive of the helpless in our society, how can you take any action which would prevent us from going after MS-13? MS-13 is a violent and vicious gang, and if we don't stand together as one, if we continue to make hypothetical arguments or a parade of horrors, we are subjecting and putting more young people—innocent young people—documented and undocumented, in the line of fire and putting them into the killing fields.

I applaud the President, I applaud the Attorney General, and I also support the Democratic leaders in Suffolk County, all of whom have come together in a bipartisan effort to stamp out MS-13. But we must do more. This bill is a major step in that direction. I am proud to support it. I am proud to stand with Mr. GOODLATTE, Mr. LABRADOR, and Mrs. COMSTOCK in doing this.

This is reality. This isn't make-believe. This isn't something we can dream about, something that may go bad. This is going bad day after day after day in my district and districts throughout the country. These are animals. They need to be eradicated from our society, and this bill is a major step in that direction.

Mr. Speaker, I stand in strong support of the bill and urge its adoption.

Ms. LOFGREN. Mr. Speaker, I would just note that this bill was indeed part of the Davis-Oliver Act which did go through the Judiciary Committee. But that bill was over 200 pages long. It had many problems. It was impossible to

address all the problems. We would be there for a month if we had gone through line by line. It was not a good process. If it had been perfect, I would note that Chairman GOODLATTE would not have had to have his amendment to remove the reason-to-believe standard that was in the bill that was part of the Davis-Oliver Act.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON LEE), who is my colleague on the Judiciary Committee.

Ms. JACKSON LEE. Mr. Speaker, I thank the gentlewoman for her leadership.

Mr. Speaker, this bill is as much a criminal injustice bill as it is immigration. Serving as the ranking member on the Crime, Terrorism, Homeland Security, and Investigations Subcommittee, I am both a believer in the dangers of MS-13 as many of my colleagues are. I offer concern and recognition of their violence.

That is why this bill should be defeated because something as crucial as this does not need to be litigated in the courts. You make a bill with such insufferable frailties constitutionally without bipartisanship, without any hearings, and without the ability to set a legal standard of what is the definition or the understanding of a criminal gang.

This is done in consultation with the Attorney General, who is an opponent of any form of immigration, legal or undocumented, consulting with the Homeland Security Secretary of which I am a member of that committee, and the dominant factor will be the Attorney General talking to the Homeland Security Secretary about criminal elements. Who do you think will prevail? How many will be swept up in this expansive, nonorganized, nonorderly, and non-due process legislation?

The frailties of this bill are the very number, if you will, five. Five persons can be called a criminal gang. Mothers and fathers, listen: innocent behavior of young people tattooed or having friends could be called a criminal gang. Yes, individuals who have status could be deported, an ongoing group, club, organizations, or associations. They have expanded this, maybe high school kids who may gather to smoke marijuana. Maybe this would cover sanctuary sites like churches that aid undocumented immigrants.

All we are asking is let us work together to get a bill that fights MS-13, not fights innocent people. The bill defines criminal gang, a group that has been designated as a criminal gang, as I said, by the DHS Secretary in consultation with the Attorney General. It is unwise and irresponsible to not have the kind of organized framework.

That happens from not having committee hearings and markups. It happens when you don't engage police officers in a wide breadth from many different aspects.

I am disappointed that this bill did not have the opportunity to have the

Subcommittee on Crime, Terrorism, Homeland Security, and Investigations have input, and that would have been done if we had a full hearing or a hearing in the Immigration and Border Security Subcommittee, or a hearing in the Crime, Terrorism, Homeland Security, and Investigations Subcommittee, or a hearing in the full committee as I mentioned.

It lacks a constitutional construct. It begins to criminalize for associations. We are heading down a terribly unsophisticated road. According to the Office of Juvenile Justice and Delinquency Prevention's recent report, nationally, 48,000 juvenile offenders were held in residential facilities. We don't need to add more, but here is the outcome: they are not just held, they are deported.

Again, I emphasize to my colleagues that the ages could be very young because there are no firewalls dealing with the ages that might be swept up in this wide sweep of those who deserve to be responded to in a way that is not this bill. This bill pretends to be wrapping up and rounding up bad actors that are undocumented immigrants. That is the big calling card. I would ask, Mr. Speaker, that my colleagues vote against this bill.

Mr. Speaker, I include in the RECORD "Fact check: Immigration doesn't bring crime into U.S.," by PBS NewsHour.

[From the PBS Newshour, Feb. 3, 2017]

FACT CHECK: IMMIGRATION DOESN'T BRING
CRIME INTO U.S. DATA SAY
(By The Conversation)

EDITOR'S NOTE: In his first week in office, President Donald Trump showed he intends to follow through on his immigration promises. A major focus of his campaign was on removing immigrants who, he said, were increasing crime in American communities.

In his acceptance speech at the Republican National Convention, Trump named victims who were reportedly killed by undocumented immigrants and said:

"They are being released by the tens of thousands into our communities with no regard for the impact on public safety or resources . . . We are going to build a great border wall to stop illegal immigration, to stop the gangs and the violence, and to stop the drugs from pouring into our communities."

Now as president, he has signed executive orders that restrict entry of immigrants from seven countries into the U.S. and authorize the construction of a wall along the U.S. border with Mexico. He also signed an order to prioritize the removal of "criminal aliens" and withhold federal funding from "sanctuary cities."

But, what does research say about how immigration impacts crime in U.S. communities? We turned to our experts for answers.

ACROSS 200 METROPOLITAN AREAS

(By Robert Adelman, University at Buffalo, and Lesley Reid, University of Alabama)

Research has shown virtually no support for the enduring assumption that increases in immigration are associated with increases in crime.

Immigration-crime research over the past 20 years has widely corroborated the conclusions of a number of early 20th-century presidential commissions that found no backing

for the immigration-crime connection. Although there are always individual exceptions, the literature demonstrates that immigrants commit fewer crimes, on average, than native-born Americans.

Also, large cities with substantial immigrant populations have lower crime rates, on average, than those with minimal immigrant populations.

In a paper published this year in the Journal of Ethnicity in Criminal Justice, we, along with our colleagues Gail Markle, Saskia Weiss and Charles Jaret, investigated the immigration-crime relationship.

We analyzed census data spanning four decades from 1970 to 2010 for 200 randomly selected metropolitan areas, which include center cities and surrounding suburbs. Examining data over time allowed us to assess whether the relationship between immigration and crime changed with the broader U.S. economy and the origin and number of immigrants.

The most striking finding from our research is that for murder, robbery, burglary and larceny, as immigration increased, crime decreased, on average, in American metropolitan areas. The only crime that immigration had no impact on was aggravated assault. These associations are strong and stable evidence that immigration does not cause crime to increase in U.S. metropolitan areas, and may even help reduce it.

There are a number of ideas among scholars that explain why more immigration leads to less crime. The most common explanation is that immigration reduces levels of crime by revitalizing urban neighborhoods, creating vibrant communities and generating economic growth.

ACROSS 20 YEARS OF DATA

(By Charis E. Kubrin, University of California, Irvine, and Graham Ousey, College of William and Mary)

For the last decade, we have been studying how immigration to an area impacts crime.

Across our studies, one finding remains clear: Cities and neighborhoods with greater concentrations of immigrants have lower rates of crime and violence, all else being equal.

Our research also points to the importance of city context for understanding the immigration-crime relationship. In one study, for example, we found that cities with historically high immigration levels are especially likely to enjoy reduced crime rates as a result of their immigrant populations.

Findings from our most recent study, forthcoming in the inaugural issue of The Annual Review of Criminology, only strengthen these conclusions.

We conducted a meta-analysis, meaning we systematically evaluated available research on the immigration-crime relationship in neighborhoods, cities and metropolitan areas across the U.S. We examined findings from more than 50 studies published between 1994 and 2014, including studies conducted by our copanelists, Adelman and Reid.

Our analysis of the literature reveals that immigration has a weak crime-suppressing effect. In other words, more immigration equals less crime.

There were some individual studies that found that with an increase in immigration, there was an increase in crime. However, there were 2.5 times as many findings that showed immigration was actually correlated with less crime. And, the most common finding was that immigration had no impact on crime.

The upshot? We find no evidence to indicate that immigration leads to more crime and it may, in fact, suppress it.

Ms. JACKSON LEE. Mr. Speaker, opposing this, in particular, I would like

to add this letter from The Leadership Conference on Civil and Human Rights and a letter from the American Immigration Lawyers Association.

THE LEADERSHIP CONFERENCE
ON CIVIL AND HUMAN RIGHTS,
Washington, DC, September 13, 2017.

OPPOSE H.R. 3697, THE "CRIMINAL ALIEN GANG
REMOVAL ACT"

DEAR REPRESENTATIVE: On behalf of The Leadership Conference on Civil and Human Rights, I am writing to express our opposition to H.R. 3697, which creates new, sweeping grounds for barring entry to or deporting immigrants based on the mere suspicion of gang affiliation. We oppose H.R. 3697 for the following reasons:

It would subject people who have never committed a crime to deportation, creating a new definition of "criminal gang" that is unworkably vague and could cover a wide range of organizations ranging from churches to fraternities to political groups. It shifts the burden to individuals to prove they did not know they were affiliated with a gang that committed qualifying offenses, even though proving such a negative is often impossible.

It would expand the use of mandatory, no-bond detention to people facing removal under the bill, even if they have not been convicted of any criminal offenses.

Deportations based on suspected gang membership or affiliation would likely rely on flawed gang databases, which are rife with inconsistent definitions, improper documentation procedures, and inadequate safeguards.

Creating a new ground of deportability for suspected gang members is also unnecessary, because the government already has enough tools and resources to deport such individuals. Most states and the federal government also have laws that punish or enhance sentences for individuals suspected of being gang members, recruiting gang members, or committing crimes while in a gang. In addition, DHS has long prioritized its resources to target suspected gang members for deportation.

H.R. 3697 will disproportionately harm younger immigrants—particularly unaccompanied minors, some of whom flee their home countries to escape gang violence, forced drug trafficking, and sexual violence, and who are at high risk of being coerced to participate in criminal activity. It will also indiscriminately bar these immigrants from asylum, withholding of removal, or other forms of humanitarian relief.

Only a week after the elimination of the Deferred Action for Childhood Arrivals (DACA) program, we are deeply disappointed that Congress's first legislative response is to further erode due process protections for immigrants and put them at an even greater risk of deportation. We urge you to oppose H.R. 3697.

Sincerely,

VANITA GUPTA,
President & CEO.

AMERICAN IMMIGRATION
LAWYERS ASSOCIATION.

AILA RECOMMENDS VOTE NO ON H.R. 3697—
REVISED TO INCLUDE GOODLATTE AMEND-
MENT, 9/13/2017—"CRIMINAL ALIEN GANG
MEMBER REMOVAL ACT"

As the national bar association of over 15,000 immigration lawyers and law professors, AILA recommends that Members of Congress oppose H.R. 3697, the "Criminal Alien Gang Member Removal Act." The bill is scheduled to come before the House Rules Committee on September 12th and to the floor in the days immediately thereafter.

While Judiciary Chairman GOODLATTE claims that H.R. 3697 is a “common sense bill to protect our communities,” in fact the bill will do just the opposite: undermine due process and enable the Trump Administration to deport massive numbers of foreign nationals who pose no threat to our communities or national security. The bill is overbroad and provides government officials with new, expansive powers to detain, deport, and block noncitizens from the United States regardless of whether that individual is suspected of, charged with, or convicted of any specific crime, or whether the individual poses any risk to public safety. The bill does not advance its purported public safety goals, and moreover will place the lives of asylum seekers and other vulnerable individuals at greater risk of harm.

At a time when our nation urgently needs Congress to reform our immigration laws, its leadership has chosen instead to scapegoat immigrants and grant far-reaching enforcement powers to the government that will result in abuse and overreach. More than four years have passed since the Senate passed a comprehensive reform bill. During that time, the House has refused, and still refuses, to address the needs of families and businesses waiting in lengthy backlogs for visas and green cards. The House has yet to bring to a vote a bill that provides a solution for Dreamers and other unauthorized persons. American families, businesses and communities need reform that will strengthen America. H.R. 3697 takes our country in the wrong direction and should be rejected.

Below is a list of the most harmful provisions in H.R. 3697.

H.R. 3697 creates a sweeping, overly-broad definition of “criminal gang” in immigration law (Section 2(a)). The bill defines “criminal gang” as a group, club or association of five or more people who, within the last five years, had or has as one of its primary purposes the commission of a wide range of conduct including any federally defined felony drug offense, harboring of immigrants (under INA §274), the use of expired identification documents, or obstruction of justice.

The bill’s over-inclusive definition imposes criminal liability on non-criminal associations, creating the illusion of a gang where none in fact exists. Under this bill, many groups could qualify as criminal gangs including a church group which elects to offer “sanctuary” to an undocumented immigrant or a fraternity whose members use expired identification documents to purchase liquor.

This definition of “criminal gang” is broader than the existing federal criminal law sentencing enhancement for “criminal street gang” in 18 U.S.C §521(a). The gang definition in H.R. 3697 is also far broader than most state law definitions of criminal gangs. Moreover, INA §101(53) permits the Secretary of DHS, in consultation with the Attorney General, to use the above criteria to designate a “criminal gang.”

H.R. 3697 adds inadmissibility and deportability grounds that violate due process (Sections 2(b) and 2(c)). H.R. 3697 enables an immigration official to deny admission to a noncitizen if the official has “reason to believe” the person is or has ever been a member of a “criminal gang” or participated in activities associated with such group. The “reason to believe” standard is a low evidentiary standard and does not require a conviction or even an arrest.

Under this low standard, the bill will heighten the risk that non-dangerous people will be incorrectly and unfairly classified as gang members. These provisions authorize government officials to target people for their mere association with groups considered to be dangerous rather than for the per-

son’s own specific conduct. Authorizing guilt by association has been shown to lead law enforcement to engage in discriminatory enforcement and to depend on unreliable factors as tattoos, style of dress, ethnic background, or neighborhood associations. Under this bill, an immigration official may wrongly label a minor as a gang member for doing nothing more than living in a neighborhood with a large number of immigrants and spending time with a suspected gang member or for displaying the flag of his home country.

Goodlatte amendment: The original version of H.R. 3697 submitted to Rules Committee would have allowed this low “reason to believe” standard to apply not only to admissions but also to deportations of any non-citizen, including lawful permanent residents. An amendment offered by Chairman GOODLATTE that is now included in the bill removes “the reason to believe” standard with respect to deportation. Even with this change, the bill would authorize immigration officials to deport lawful permanent residents that are associated with a group labeled a “criminal gang,” including a group that is wrongfully designated as a gang. As revised by the Goodlatte Amendment, the bill still applies the “reason to believe” standard to every individual who is seeking admission—which constitutes the vast majority of those who are targeted for enforcement.

H.R. 3697 imposes mandatory detention on anyone, including lawful permanent residents, that an immigration official deems a member of a criminal gang (Sections 2(e) and 2(i)). This provision requires ICE to detain a person regardless of whether that person actually poses a danger to the community. Moreover, H.R. 3697 provides no opportunity for the person to appear before a judge to request a custody determination—also known as a bond hearing. In this regard, the bill completely eliminates an immigration Judge’s review of the officer’s decision—a critical component of due process that prevents unfair government deprivation of liberty.

Any of the people who could be wrongfully labeled as criminal gang members, innocent youth on the street and church members, will be subject to automatic unreviewable detention under this bill. Ensuring that no one is wrongfully detained by the government is a hallmark of American values and the Constitution. This bill tramples upon those principles.

H.R. 3697 threatens protection for vulnerable populations (Sections 2(f), 2(g), 2(h)). H.R. 3697 not only gives broad power to immigration officials to designate harmless people as gang members, but it also renders people merely suspected of gang association ineligible for humanitarian protection such as asylum, Temporary Protected Status, and Special Immigrant Juvenile Status. This bill will prevent bona fide refugees from seeking legal protection in the United States, including children fleeing forced gang recruitment and other victims of abuse encountered by gang members in their home country. This bill could be used to deny these children protection and safe haven in the U.S., deporting them back to their persecutors in violation of U.S. and international legal protections.

America has always been a beacon of hope for those fleeing persecution and oppression. H.R. 3697 will extinguish that beacon by granting extensive powers to the government to detain and deport people who seek protection. AILA urges Congress not to pass legislation that undermines due process protections and would further advance mass deportations of immigrants and other foreign nationals.

Ms. JACKSON LEE. This clearly says this is not a bill against crime, it is a deportation bill.

Save our children, Mr. Speaker. Let’s do something different and defeat the bill.

Mr. Speaker, I rise in opposition to H.R. 3697, the “Criminal Alien Gang Member Removal Act of 2017”.

This bill amends the INA to now include a definition for criminal street gangs as:

An ongoing group, club, organization, or association of 5 or more persons that has as one of its primary purposes the commission of certain listed offenses, including: a felony drug offense, including felony simple possession of marijuana (this would impact high school kids who may gather to smoke marijuana); bringing in and harboring certain aliens under INA 274 (this would cover sanctuary sites like churches that aid undocumented immigrants); identity fraud offenses (including knowingly possessing a false identity document); crimes involving obstruction of justice; and burglary.

This bill also defines “criminal gang”: a group that has been designated as a criminal gang by the DHS Secretary in consultation with the Attorney General.

I oppose this unwise and irresponsible legislation because the bill contains several constitutional and procedural defects, and is an unnecessary diversion and distraction from the real issues facing the American people.

As Ranking Member of the House Judiciary Crime Subcommittee, I am highly disappointed that this bill was rushed to the floor without any thorough and thoughtful consideration by the Judiciary Committee.

In particular, there was no markup or hearing on this legislation that has such wide ranging and profound effect on a mass scale.

This bill (1) is constitutionally unsound; (2) has a very low standard of proof; and (3) will result in a sweeping effect among many innocent individuals who have not committed any crime, and thus, raises due process and racial profile concerns.

First, this bill lacks a constitutional construct for how Homeland Security is to determine its designation of a “criminal street gang”.

I offered an amendment that would have required a uniform legal standard, which will govern the identification of Criminal Street gang members for purposes of ICE enforcement.

According to this bill, ‘any’ immigrant, including minors, such as a 13 or 14 year old juvenile, would be subject to the harsh penalties of detention and deportation.

If we begin to criminalize for associations then we are heading down a terribly dark road, particularly with youths. Statistics show that the brain does not fully develop until the age of 25. To punish them for mere association based on unsubstantiated evidence is bad legislation.

According to the Office of Juvenile Justice and Delinquency Prevention recent report, nationally, 48,043 juvenile offenders were held in residential placement facilities as of October 28, 2015.

Due to this bill’s vague nature, we would add to that alarming number, and further complicates mass incarceration.

Second, the government’s mere belief that someone is associated with a criminal gang is sufficient. Given the need for the Department of Homeland Security to come in and deport

any individual, the bar must be higher than mere suspicion and/or belief. There must be a clear and convincing standard under these circumstances.

This bill would capture individuals, even those with permanent residence status; so long as the government believes the individual is associated with a criminal street gang.

Even 13 or 14 year old juveniles that the government may believe are engaging in marijuana use, other drugs, or have association with criminal gangs would be subject to this bill's penalty.

Third, this bill have a sweeping effect given its vague definition and overbroad targets for those who may harbor certain aliens and/or associate with criminal gang members.

This bill has a discriminatory effect in targeting the immigrant community by criminalizing immigration, and thereby, raises due process and racial profiling concerns.

Criminal gangs are very complex and are not exclusive to the immigrant community.

The FBI reports some 33,000 violent street gangs, motorcycle gangs, and prison gangs with about 1.4 million members that are criminally active in the U.S. and Puerto Rico today.

Many are sophisticated and well organized; all use violence to control neighborhoods and boost their illegal moneymaking activities, which include robbery, drug and gun trafficking, prostitution and human trafficking, and fraud.

Strikingly, for this conversation, in these 33,000 street gangs, a significantly larger percentage was non illegal immigrants, unlike the message purported in this bill.

Some of those street gangs include: 211 Crew, American Front, Aryan Brotherhood of Texas, Aryan Circle, Aryan Nation, Aryan Republican Army, Born to Kill, Dead Man Incorporated, European Kindred, just to name a few here that are mainly white supremacist gang groups. We could go on, as gangs are found everywhere, in almost every ethnic group.

As legislators on the Judiciary Committee, we argue vigorously on behalf of the American people, as is the case in any other Committee; and in doing so, we will sometimes disagree.

So to suggest that we would not have been able to debate the merits of this bill, so instead bypass the regular process is disheartening.

Are we passionate about the issues that impact our legislative process, governance, and the American people? Yes we are! And we will continue to probe vigorously, as a legislative body having jurisdiction, notwithstanding the subject matter.

We will not stay quiet as to not offend a few when so many issues with catastrophic consequences may result if we don't speak up.

So Mr. Speaker, I make no apologies for doing my job and questioning where necessary on behalf of the American people.

We should be having vigorous debate on matters such as jobs, schools, health care, victims of Charlottesville, victims of climate change, building bridges, healing broken communities, and bringing this country together for "all" the American people, we are instead debating a damaged bill in order to advance the President's campaign promise on mass deportation, thus, distracting us from the people's business.

My amendments attempted to fix some of the glaring defects in this bill. In its current

form, it is bad for our country and does not keep our communities safe, but instead does the opposite.

For all the reasons stated above, I oppose this bill.

Mr. LABRADOR. Mr. Speaker, I agree. We should save our children. We need to start deporting some criminal gang members.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. GOODLATTE), who is the chairman of the full committee.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Idaho and the chair of our subcommittee for yielding.

Mr. Speaker, I rise today in strong support of H.R. 3697, the Criminal Alien Gang Member Removal Act.

Transnational criminal gangs have declared war on the United States. Their tactics of intimidation and unspeakable mutilation and killing have permeated most every part of our country, including multiple instances in my own district. Most recently in Bedford County, Virginia, a young man was killed by alien members of MS-13.

The Department of Homeland Security reports an ever-growing number of criminal aliens joining international gangs, such as MS-13, which alone has over 10,000 members within our borders. Whether these criminals came to this country illegally as unaccompanied minors, adults, or have valid visas or even green cards, it is time to send the message that this behavior will simply not be tolerated.

Yet current immigration law includes no provision allowing for the removal of criminal gang members based on their membership in dangerous gangs or participation in gang activities. The result is unconscionable. ICE must sit on the sidelines and wait for known gang members to be arrested and convicted of specific offenses before removal proceedings may commence. Of course, with many victims and witnesses too petrified of retaliation against them and their families to cooperate with police, many gang members are never convicted of their crimes.

This legislation provides a crucial tool so that ICE can seek to remove alien gang members before they are able to extort businesses and murder innocent Americans.

In addition, this bill allows the Secretary of Homeland Security to designate organizations as criminal gangs utilizing the same transparent procedures used by the Secretary of State to designate foreign terrorist organizations. Finally, the bill ensures that criminal alien gang members cannot receive asylum and be released back onto our streets able to resume their criminal activities while being eligible for a vast array of Federal benefits.

Eradicating the death grip that transnational criminal alien gangs hold over many of our communities, especially immigrant communities, is an important piece of immigration re-

form. I am pleased that this bill, which stems from legislation that the House has approved in the past and which has been approved by the Judiciary Committee in multiple Congresses, is being considered today.

Now, I want to address the allegation that this bill targets priests, nuns, and garage band members. It is preposterous. This bill deliberately includes the longstanding Federal criminal offenses for alien smuggling as predicates for criminal gang activity. Coyotes and other criminal gangs make billions of dollars and put countless lives at risk through their alien smuggling activities.

As former U.S. Attorney David Iglesias, who emigrated to the United States from Latin America as a child, stated: "Smuggling aliens across our borders is a dangerous business. All too often, people entrust their lives to smugglers, only to die in the broiling desert, or suffocate in the back of locked, airless trucks while the smugglers profit."

"These smuggling rings, which facilitate illegal entry into the United States and mercilessly exploit human beings for money, are a danger to immigrants and a threat to our national security. . . ."

The Democrats are engaging in a huge amount of obfuscation. In the past, House Democrats claimed the House passed legislation that would have strengthened Federal alien smuggling laws, would have had the effect of putting priests and nuns at risk of prosecution. The Democrats' clear implication was that these problems didn't exist under then-current law which remains current law.

Let me quote, Democrat members of the House Judiciary Committee, including JOHN CONYERS, JERRY NADLER, ZOE LOFGREN, and SHEILA JACKSON LEE, they stated that the bill then under consideration goes far beyond increasing penalties for alien smuggling and jeopardizes the well-being of millions of Americans, neighbors, family members, faith institutions, and others who live and work with undocumented immigrants.

Former Speaker PELOSI, the current minority leader, stated: "Under the guise of an expansive definition of smuggling,"—the bill—"it could make criminals out of Catholic priests and nuns, ministers, rabbis, and social service workers who provide assistance and acts of charity to those in need."

The Democrats can't have it both ways. They can't argue one day that we can't change current law because that would result in putting priests and nuns at risk and argue the next day that, without any evidence, current law already puts them at risk. To add to the hypocrisy, the House Democrats supported an amendment which passed by voice vote.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LABRADOR. Mr. Speaker, I yield the gentleman from Virginia an additional 2 minutes.

Mr. GOODLATTE. So to add to the controversy, the House Democrats supported an amendment which passed by voice vote to add human smuggling to the list of predicate acts under the Federal money laundering statute.

□ 1000

The Department of Justice and Immigration and Customs Enforcement simply do not target clergy and others who do not make distinctions based on immigration status when serving those in spiritual or material need.

The use of such laws against religious organizations and other humanitarian groups has been practically nonexistent. Of course, as in the sanctuary movement in the 1980s, when religious organizations engage in the smuggling of illegal aliens into the United States, they would be subject to prosecution, just as anyone else would be.

This bill is based upon the same precedent that has been passed through this House by voice vote dealing with human smuggling. It is time to apply the same standard to alien gang members who are perpetrating violence not just on people traveling to the United States, as in the case of human smuggling, but on the citizens of virtually every State in the Union.

The murders that have been outlined by Mr. KING of New York, Mrs. COMSTOCK of Virginia, Mr. LABRADOR of Idaho, and others are taking place all across the country because we simply are not removing from this country as expeditiously as possible members of gangs like MS-13. It is time to get about doing that, and this bill does that.

I want to commend Representative BARBARA COMSTOCK; Representative PETER KING; and the chairman of our Immigration and Border Security Subcommittee, Representative RAUL LABRADOR, for their work on this important bill.

Madam Speaker, I urge my colleagues to support H.R. 3697.

Ms. LOFGREN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I include in the RECORD an analysis entitled: "Harboring: Overview of the Law," prepared by the Catholic Legal Immigration Network, Inc.

[From the Catholic Legal Immigration Network, Inc.]

HARBORING: OVERVIEW OF THE LAW

The Immigration and Nationality Act (INA) prohibits individuals from concealing, shielding, or harboring unauthorized individuals who come into and remain in the United States. Under the law it is a criminal offense punishable by a fine or imprisonment for any person who:

knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation. INA §274(a)(1)(A)(iii), 8 U.S.C. 1324(a)(1)(A)(iii) [hereinafter the "harboring provision" or "Section 1324 (a)"].

THE HARBORING PROHIBITION APPLIES TO EVERYONE

The harboring prohibition is not restricted to those individuals who are in the business of smuggling undocumented immigrants into the United States or who employ undocumented immigrants in sweatshop-like conditions. As interpreted by the courts, harboring can apply to any person who knowingly harbors an undocumented immigrant. See, e.g., *United States v. Shum*, 496 F.3d 390 (5th Cir. 2007); *United States v. Zheng*, 306 F.3d 1080, 1085 (11th Cir. 2002), *cert denied*, 538 U.S. 925 (2003); *United States v. Kim*, 193 F.3d 567, 573-74 (2d Cir. 1999); *United States v. Rubio-Gonzalez*, 674 F.2d 1067, 1073 (5th Cir. 1982); *United States v. Cantu*, 557 F.2d 1173, 1180 (5th Cir. 1977), *cert denied*, 434 U.S. 1063 (1978).

WHAT ARE THE ELEMENTS OF HARBORING?

To establish a violation of the harboring provision, the government must prove the following in most jurisdictions "(1) the alien entered or remained in the United States in violation of the law, (2) the defendant concealed, harbored, or sheltered the alien in the United States, (3) the defendant knew or recklessly disregarded that the alien entered or remained in the United States in violation of the law, and (4) the defendant's conduct tended to substantially facilitate the alien remaining in the United States illegally." *Shum*, 496 F.3d at 391-392 (quoting *United States v. De Jesus-Batres*, 410 F.3d 154, 160 (5th Cir. 2005), *cert denied*, 546 U.S. 1097 (2006)). The U.S. Court of Appeals for the Seventh Circuit has rejected the fourth element asserting that the phrase "conduct tending substantially to facilitate" is a judicial addition to the statute that is unnecessary for a conviction because the statute requires no specific degree of assistance. *United States v. Xiang Hui Ye*, 588 F.3d 411, 415-416 (7th Cir. 2009).

WHAT ACTIONS CONSTITUTE HARBORING?

Although Congress passed legislation to prohibit and punish the "harboring" of undocumented individuals, it never defined the term. The work of defining what constitutes "harboring" has been left to the courts. As shown below, the federal courts have not settled on one uniform definition, but rather many of the circuit courts have adopted their own definition of "harboring."

Harboring is conduct that substantially facilitates an immigrant's remaining in the U.S. illegally and that prevents the authorities from detecting the individual's unlawful presence (U.S. Court of Appeals for the Second Circuit)

Harboring includes affirmative conduct such as providing shelter, transportation, direction about how to obtain false documentation, or warnings about impending investigations that facilitates a person's continuing illegal presence in the United States. (U.S. Court of Appeals for the Third Circuit)

Harboring is conduct tending to substantially facilitate an immigrant's remaining in the U.S. illegally (U.S. Courts of Appeals for the Fifth Circuit)

Harboring is conduct that clandestinely shelters, succors, and protects improperly admitted immigrants. (U.S. Court of Appeals for the Sixth Circuit)

Harboring is conduct that provides or offers a known undocumented individual a secure haven, a refuge, a place to stay in which authorities are unlikely to be seeking him. (U.S. Court of Appeals for the Seventh Circuit)

Harboring is conduct that affords shelter to undocumented individuals. (U.S. Court of Appeals for the Ninth Circuit)

EXPLANATION OF HARBORING THROUGH CASE LAW

U.S. Court of Appeals for the Second Circuit

In the influential case, *United States v. Lopez*, the U.S. Court of Appeals for the Sec-

ond Circuit went through the legislative history of the harboring provision and stated that the term harbor "was intended to encompass conduct tending substantially to facilitate an alien's 'remaining in the United States illegally,' provided that the person charged has knowledge of the immigrant's unlawful status." 521 F.2d 437, 441 (2d Cir. 1975), *cert. denied*, 423 U.S. 995 (1975).

In this case, Mr. Lopez owned at least six homes in Nassau County, New York, where he operated safe havens for undocumented individuals. Mr. Lopez knew that the people staying in his homes were undocumented. Each person paid Mr. Lopez \$15 per week to live in his houses. In many cases, people received the address for a particular house before they left their home countries, and, upon crossing the border illegally, they proceeded directly to the house. Mr. Lopez also helped these individuals obtain jobs by completing work applications and transporting them to and from work. He arranged sham marriages for many so that they could appear to be in the U.S. in lawful status. With a warrant, immigration authorities searched six of Lopez's homes and found twenty-seven undocumented individuals. He was charged with harboring illegal immigrants.

Mr. Lopez argued that the mere providing of shelter to undocumented immigrants does not constitute harboring. *Id.* at 439. He argued that to constitute harboring the conduct must be part of the process of smuggling immigrants into the U.S. or facilitating the immigrants' illegal entry into the U.S. *Id.* The circuit court noted that he essentially argued that to constitute harboring the sheltering would have to be provided either clandestinely or for the purposes of sheltering the immigrants from the authorities. *Id.*

The Second Circuit rejected these arguments. It held that the statute criminalizes conduct that tends substantially to facilitate an alien's remaining in the United States illegally. *Id.* at 441. The circuit court found that Mr. Lopez's conduct did just that. It pointed out that Mr. Lopez had a large number of undocumented immigrants living at his houses; they obtained the addresses and, upon entering the U.S., proceeded to those houses; Mr. Lopez provided transportation for them to and from work; and, he helped arrange sham marriages. *Id.* The Second Circuit did not require that Mr. Lopez provide the shelter clandestinely nor that he shield the illegal immigrants from detection by immigration authorities. *Id.*

The case of *United States v. Kim* also is instructive on the meaning of harboring. 193 F.3d 567 (2d Cu 1999). It states that harboring within the meaning of Section 1324(a) "encompasses conduct tending substantially to facilitate an alien's remaining in the U.S. illegally and to prevent government authorities from detecting [the immigrant's] unlawful presence." *Id.* at 574. In this case, Mr. Myung Ho Kim owned and operated a garment-manufacturing business called "Sewing Masters" in New York City. He employed a number of undocumented workers, including Nancy Fanfar. During the course of her employment, Mr. Kim instructed Ms. Fanfar to bring in new papers with a different name that would indicate that she had work authorization. He instructed Ms. Fanfar to change her name and remain in his employ a second time, even while he was being investigated by immigration authorities.

According to the circuit court, Mr. Kim's actions constituted harboring, for they were designed to help Ms. Fanfar remain in his employ and to prevent her continued presence from being detected by the authorities. Thus, his conduct substantially facilitated her ability to remain in the U.S. illegally in prohibition of the harboring provision. *Id.* at 574-575.

U.S. Court of Appeals for the Third Circuit

The Third Circuit also has considered what conduct constitutes “shielding,” “harboring,” and “concealing” within the meaning of Section 1324(a). Like the Second Circuit, it determined that these terms encompass conduct “tending to substantially facilitate an alien’s remaining in the U.S. illegally” and [that] prevent[s] government authorities from detecting the alien’s unlawful presence. “*U.S. v. Ozcelik*, 527 F.3d 88, 100 (3d Cir. 2008); see also *Delno-Mocci v. Connolly Props*, 672 F.3d 241, 246 (3d Cir. 2012), *U.S. v. Cuevas-Reyes*, 572 F.3d 119, 122 (3d Cir. 2009); *U.S. v. Silveus*, 542 F.3d 993, 1003 (3d Cir. 2008).

In *United States v. Ozcelik*, the defendant knew that the individual remained in the U.S. illegally and advised him to “lay low” and “stay away” from the address he had on file with the government. 527 F.3d at 100. However, Mr. Ozcelik did not actively attempt to intervene or delay an impending immigration investigation and the Third Circuit held that advising an individual without legal status to stay out of trouble and to keep a low profile does not tend substantially to facilitate their remaining in the country. *Id.* at 100–01. The circuit court reasserted that shielding or harboring a person without status ordinarily includes affirmative conduct such as providing shelter, transportation, direction about how to obtain false documentation, or warnings about impending investigations that facilitates a person’s continuing illegal presence in the United States. See *Id.* at 99.

In *United States v. Silveus*, the Third Circuit held that cohabitation, along with reasonable control of premises during an immigration agent’s inquiry regarding the whereabouts of the suspected undocumented individual, does not constitute harboring without sufficient evidence that a defendant’s conduct substantially facilitated the individual’s remaining in the U.S. illegally and prevented authorities from detecting his/her unlawful presence. 542 F.3d at 1002–04. In this case, the agent never saw the suspected undocumented individual, but only heard the apartment door slam, heard some bushes break, and as he approached, saw the defendant shut her front door. *Id.* at 1002. The defendant spoke to the agent through her window and when asked if anybody had run out of her apartment, she said “I don’t know.” *Id.* at 1003. The circuit court determined that the act of shutting a door as an agent rounded the corner and her subsequent reply to the agent’s question did not establish “harboring” under Section 1324(a) because it only led to speculation as to the suspect’s presence. *Id.* at 1004.

In *United States v. Cuevas-Reyes*, the Third Circuit reaffirmed that shielding an undocumented person includes affirmative conduct (such as providing shelter, transportation, direction about how to obtain false documents, or warnings about impending investigations) that facilitates the person’s continuing illegal presence in the U.S. 572 F.3d at 122. The circuit court held that the defendant’s actions (taking undocumented people from the U.S. to the Dominican Republic in his private plane) were undertaken for the purpose of removing them from the U.S., not helping them remain in the U.S. *Id.* It noted that the goal of Section 1324 is to prevent undocumented individuals from entering or remaining illegally in the U.S. by punishing those that shield or harbor. *Id.* It asserted that punishing a defendant for helping individuals without legal status leave the U.S. would be contrary to that goal. *Id.*

More recently, the Third Circuit reiterated that “harboring” requires some act that obstructs the government’s ability to discover the undocumented person and that it is high-

ly unlikely that landlords renting apartments to people lacking lawful status could, without more, satisfy the court’s definition of harboring. *Delrio-Mocci*, 672 F.3d at 246 (citing *Lozano v. City of Hazelton*, 620 F.3d 170, 223 (3d Cir. 2010)). The circuit court reiterated that “[r]enting an apartment in the normal course of business is not in and of itself conduct that prevents the government from detecting an alien’s presence.” *Id.*

U.S. Court of Appeals for the Fifth Circuit

The Fifth Circuit’s definition of harboring is broader than the Second and Third Circuits. It rejects the notion that to be convicted of harboring a defendant’s conduct must be part of a smuggling operation or involve actions that hide immigrants from law enforcement authorities. See *De Jesus-Batres*, 410 F.3d at 162 (specific intent is not an element of the offense of harboring). An early Fifth Circuit decision, *U.S. v. Cantu*, 557 F.2d 1173 (5th Cir. 1977), remains informative.

In *Cantu*, immigration agents visited the restaurant owned by Mr. Cantu because they received information that he was employing undocumented workers. The agents wanted to question the employees. Mr. Cantu refused admission to his restaurant until they could provide a warrant.

While the immigration authorities waited outside for the warrant, Mr. Cantu made arrangements with at least two of his patrons to drive some of his undocumented employees into town. Mr. Cantu also arranged for his employees to sit in the restaurant and then leave the restaurant like customers. As the employees left the restaurant, the immigration agents approached them and questioned them about their immigration status. The agents determined their illegal status and arrested them.

Mr. Cantu argued that, because he did not instruct his employees to “hide,” and because the employees left the restaurant in full view of the officers, he could not be charged with shielding immigrants from detection. He also argued that his actions were not connected to any smuggling activity. The Fifth Circuit, relying on the Second Circuit’s Lopez decision, rejected these arguments, and determined that Mr. Cantu’s actions—instructing the employees to act like customers so they could evade arrest—tended to facilitate the immigrants remaining in the U.S. illegally. *Id.* at 1180.

In another Fifth Circuit case, *United States v. Varkonyi*, 645 F.2d 453 (5th Cir. 1981), the court cited to Lopez to assert that the harboring statute prohibits “any conduct which tends to substantially facilitate an alien’s remaining in the U.S. illegally.” *Id.* at 459. Mr. Varkonyi provided a group of undocumented immigrants with steady employment at his scrap metal yard six days a week as well as lodging at his warehouse. On previous occasions, he had instructed and aided the men in avoiding detection and apprehension. On the day of their detention, Mr. Varkonyi interfered with Customs and Border Protection agents’ actions by forcibly denying them entry to his property through physical force.

Here, the circuit court found that Mr. Varkonyi’s conduct went well beyond mere employment and thus constituted harboring. *Id.* at 459. In this case, the court pointed out that Mr. Varkonyi knew of the immigrants’ undocumented status, he had instructed the immigrants on avoiding detection on a prior occasion; he was providing the immigrants with employment and lodging, he interfered with immigration agents to protect the immigrants from apprehension; and he was partly responsible for the escape of one of the immigrants from custody. *Id.* Given these facts, the circuit court found that Mr. Varkonyi’s conduct, both before and after

the detention of the immigrants, was calculated to facilitate the immigrants remaining in the U.S. unlawfully. *Id.* at 460.

In 2007, the Fifth Circuit ruled in another employment harboring case that “substantially facilitate” means to make an individual’s illegal presence in the United States substantially “easier or less difficult.” *United States v. Shum*, 496 F.3d 390, 392 (5th Cir. 2007) (citations and quotation marks omitted). The court noted that Section 1324(a) was enacted to deter employers from hiring unauthorized individuals and it refused to adopt a narrow definition of “substantially facilitate” that undermines Congress’s purpose. *Id.*

In this case, Mr. Shum was vice-president of an office-cleaning company and he employed janitors without legal status. According to witnesses, he provided false identifications to the workers to facilitate background checks so that the workers could clean government office buildings.

Ms. LOFGREN. In this legal analysis by the Catholic Legal Immigration Network, Inc., it does point out that religious persons have been prosecuted and convicted for providing sanctuary. Opinions may differ on whether that is a good idea or bad idea, but to say that that is an MS-13 activity, I think we would all agree that is just crazy. That is what this bill would do.

Madam Speaker, I yield 3 minutes to the gentlewoman from Florida (Mrs. DEMINGS), a freshman Member of the House whom we are so fortunate to have. Just last year, as the chief of police, she was on the front line in the fight against gangs.

Mrs. DEMINGS. Madam Speaker, I spent 27 years as a law enforcement officer. I had the honor of working my way up through the ranks to become the chief of police. I co-chaired an antigang task force for the State of Florida. As chief, I launched an all-out war against violent crime. Through the hard work of a lot of good men and women, we were able to reduce violent crime by 40 percent.

Do I take gang activity very seriously? You better believe I do. I have the record to prove that.

The spirit of H.R. 3697, with this broad, new definition of what constitutes a gang, has nothing, based on my experience on the ground, to do with curtailing gang activity.

As a former law enforcement officer who has been there on the front lines, there is no way I would vote for this law. This law targets a group of people based on their status and does not target criminal activity. That is what law enforcement officers do.

We all take gang activity seriously. I heard the question earlier: Who would favor gangs? Who really would favor gangs?

I invite my colleagues on the other side to join me in continuing our aggressive efforts to target criminal behavior, because that is really what we want to stop—criminal behavior—and not profile or target people. That is just not who we are.

Mr. LABRADOR. Madam Speaker, I reserve the balance of my time.

Ms. LOFGREN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I just want to make a couple of closing comments on this bill.

I think it is a given that every Member of this body wants to do something about gangs. I have gangs in my district. I think I heard Mr. KING speak so passionately about the problem in his district. It is a pervasive problem.

The concern is that this bill goes far beyond targeting those gangs. That is why we, with great reluctance, have to say we can't do this. We can't do this.

If we wanted to target just the gangs, we wouldn't have included language that would allow charging people who are not gang members as gang members. We wouldn't have included provisions that the victims of gangs would be denied asylum. Section 2(f) of the bill denies individuals who are suspected of alleged gang membership the opportunity to apply for asylum.

Here is the problem. In certain parts of Central America, you have rampant gang activity. Women and girls are terribly abused. They are beaten, turned into sex slaves, tattooed, and they escape. If that young girl who has been the victim of that violence from gangs comes with the tattoos, the brand that that gang put on her, and if she, as a consequence, is reasonably suspected of being a member of the gang, she can't get asylum. That is not what we want in the fight against MS-13.

The bill is not drafted adequately.

Madam Speaker, I reserve the balance of my time.

Mr. LABRADOR. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARRINGTON).

Mr. ARRINGTON. Madam Speaker, in 2014, four MS-13 gang members brutally murdered a 14-year-old boy from Texas with a machete. Just this year, two MS-13 gang members laughed and waved at the cameras as they faced trial in a Houston courtroom for the kidnapping, rape, and murder of young girls. These are just two examples that reflect the horrific and gruesome reality of what gangs across this country are capable of.

There are as many as 100,000 gang members in my home State of Texas, several of whom are linked to Mexican cartels, who help them distribute drugs and traffic people and weapons. Nearly 60 percent of identified prison gang members in Texas are serving sentences for violent crimes, including homicide, robbery, and assault.

MS-13 is one of the most dangerous gangs in our State, with almost 500 members throughout Texas. They have been described by the Houston police chief as a "transnational terrorist organization," the "worst of the worst," and a "cancer." It is State and local law enforcement officers like him, as well gang task forces, who are on the front lines, putting their own lives in danger to deal with these heinous criminals.

Today, I rise in support of Mrs. COMSTOCK's bill, which will do what we should have been doing a long time

ago, and that is giving local entities the ability to expeditiously deport gang members who are here illegally and ensure they never are able to come back to the United States.

Our first job is to keep Americans safe. H.R. 3697 certainly improves the prospects of that.

Ms. LOFGREN. Madam Speaker, may I inquire how much time remains on each side?

The SPEAKER pro tempore (Mrs. MIMI WALTERS of California). The gentlewoman from California has 6 minutes remaining, and the gentleman from Idaho has 5½ minutes remaining.

Ms. LOFGREN. Madam Speaker, I yield myself such time as I may consume.

It has been mentioned that there are terrible activities being undertaken by gang members. I don't think there is any dispute in this body about that. Our obligation is to craft bills that will allow for remedies for that problem in a specific, targeted, and effective way. I think this bill falls far short in that regard.

We had mentioned earlier the great concern that has been expressed to us by religious people across the United States about the provisions relative to harboring. Five nuns on a religious worker visa who help provide sanctuary for an undocumented person is a gang under this bill. They are not MS-13.

We could craft a measure that avoids that outcome while still going after MS-13. We didn't do that. For one thing, we didn't actually sit down, both sides of the aisle, to work together, to reason together, to make that happen.

I would like to note that the smuggling issue is a big problem. We have unanimous agreement on the smuggling issue. We have worked together, actually, with the Wilberforce Act and other acts in a bipartisan way to deal with that. But we didn't bifurcate smuggling from harboring in this bill. That is why the nuns and the Catholic bishops have contacted us asking us not to support this bill.

I would like to note, just finally, that the first obligation that we have is to keep America safe. We fail to do that if we craft language that really is just part of a broad deportation agenda under the guise of an antigang bill. There is great concern that is what has happened here.

One of the elements that is referenced as a predicate for gang activity—the five people who are working together—is that documents are false. A lot of people are highly agitated when undocumented people have false documents. Opinions differ. Almost every undocumented person in the United States who works has a fake ID; otherwise, they can't get a job.

You can agree with that, you can think it is terrible, you can think it is maybe not so terrible. I think most of us would agree it is not MS-13. Why would we craft this in such a way to treat that activity as an MS-13 activ-

ity and to blow up all the procedures we have in place to make sure that justice is done?

I hope that Members will vote against this bill. Despite the name, it goes far beyond attacking gangs. It would drift into allowing for the deportation of religious people and others who have done nothing related to gang activity.

I hope that, if this bill is defeated, we can sit down, as we often have on various items and worked collaboratively on patent reform and other issues, and do the same on this. I hope, if this bill is defeated, we will take the opportunity to do that.

I, for one, pledge my best efforts to come up with a measure that is targeted and effective. This bill, unfortunately, is not.

Madam Speaker, I yield back the balance of my time.

Mr. LABRADOR. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I keep hearing again and again and again that there is no dispute about ongoing violence or gang violence in the United States, but what has been clear from today's argument is that our friends on the other side just don't want to do anything about it. They are willing to talk about the gang violence, but they don't want to actually craft and pass legislation that does something about it.

□ 1015

I hope it is something that the American people are listening to, because as we have debates over the next few months about what we should be doing with regard to immigration, I hope everyone understands that every time we try to do something about enforcement of immigration laws, about stopping gang violation, about stopping illegal immigration into the United States, it is very difficult to get agreement on the other side.

Criminal alien gang members are wreaking havoc in this country. Without stronger tools to specifically target those aliens that terrorize our streets, gangs will continue to grow in numbers and in strength.

The time has come to take action and to provide a path to deportation to those that so unabashedly seek to destroy our society.

ICE has found that "membership of these violent transnational gangs is comprised largely of foreign-born nationals." Often bearing the brunt of these gangs' violence are these very immigrant communities that the other side claims that they want to protect.

The Criminal Alien Gang Member Removal Act takes a tough approach. I agree with that. Those gang members who have successfully evaded prosecution through witness intimidation, employing the tactics of fear and violence, will now be within ICE's reach. The new grounds of removability provided by H.R. 3697 will get criminal gang members off of our streets.

ICE's recent Operation New Dawn resulted in almost 1,100 arrests of gang

members. Had H.R. 3697 been enacted prior, that number would have almost certainly increased.

This bill is only starting the removal process, however. Make no mistake—and there was a lot of obfuscation today about this—immigration proceedings do not equate to deportation. The government must prove its case and provide evidence to convince an immigration judge that gang-related activity occurred.

As a former private immigration attorney, I have seen this process in action, and it does work. ICE will not use this new charge as pretext, as this ground will never be sustained by an immigration judge without sufficient evidence.

The time for this bill is long overdue, and we cannot afford to be distracted by extreme hypotheticals and issues not germane to what we are discussing today.

This bill was introduced to target criminal gangs, as that term is commonly understood, and that is what it will do once enacted. There is no place in our country for criminal alien gang members. By removing them from our streets, H.R. 3697 will help make our communities safer. I urge my colleagues to support the bill.

Madam Speaker, I yield back the balance of my time.

Mr. CONYERS. Madam Speaker, H.R. 3697 is yet another exercise in false advertising by the Majority. Named the “Criminal Alien Gang Member Removal Act,” this legislation is so overbroad that it would lead to the deportation of immigrants with absolutely no criminal record and would apply to individuals with no connection to gangs.

In short, this blatantly anti-immigration legislation casts a wide and dangerous net in furtherance of President Trump’s mass deportation agenda. I say this for several reasons.

To begin with, H.R. 3967 authorizes the Trump Administration to brand a group of immigrants a “gang” without requiring a conviction or even an arrest.

In fact, it would allow individuals to be deported or denied admission based on a mere “belief”—however tenuous—of their connection to unlawful activity.

In addition, the bill’s definition of a “gang” is so broad that it would apply to individuals who clearly are not members of criminal gangs.

I doubt that my Republican colleagues really believe that 5 Christian ministers providing shelter to undocumented immigrants constitute a criminal gang.

But by voting for this measure, that’s precisely what lawmakers would turn them into. The bill instantly places such religious workers throughout America—from nuns to rabbis, imams to priests—into the same classification as MS–13.

Finally, we are rushing this deeply flawed legislation through the House today while nearly 800,000 young people—800,000 law abiding members of our communities—are facing deportation in as little as 6 months.

These are young people who are as American as any of us. They have grown up in our communities, attended our schools, and have become our neighbors, our teachers, first responders, doctors, and lawyers. But because

of action taken by President Trump last week, they now are living in fear and uncertainty.

There is a bipartisan bill with overwhelming support across the country that would allow these young people to remain in the United States the only home most have ever known—and continue contributing to our communities and our economy.

But that bill, the DREAM Act, has languished for years.

Nevertheless, instead of taking up the DREAM Act, we are rushing H.R. 3697 through just days after it was introduced and without any hearings, markups, or the opportunity for amendment.

This House should stop jamming through pieces of the Trump mass deportation plan and instead recommit itself to lifting up the young people of our communities by passing the DREAM act.

It is what’s right for our economy, our Nation and it is our moral responsibility.

I urge my colleagues to oppose H.R. 3697. Mr. BABIN. Madam Speaker, I rise in strong support of the Criminal Alien Gang Member Removal Act.

Remarkably, under current law, membership in a criminal street gang does not in and of itself make a non-citizen inadmissible or deportable from the United States.

This common-sense bill corrects this dangerous loophole by requiring that criminal alien gang members be deported swiftly and never allowed back into the United States.

It provides law enforcement with another tool in their arsenal to combat dangerous and deadly criminal gangs—like MS–13. Criminal gangs benefit from loopholes in our immigration laws and today we are taking an important step to close the door to the United States for non-citizen criminal gang members.

Over the past 12 months, several thousand criminal aliens who were confirmed members of gangs were removed from the United States by Immigration and Customs Enforcement (ICE). This year ICE is continuing its focus on making our streets safer by removing criminal gang members with a particular focus on MS–13 members.

It is past time that we strengthen our immigration laws, deport criminal aliens and secure our borders. We have a duty to make America safe for its citizens and H.R. 3697 is an important step in that direction.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 513, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. BEYER. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BEYER. Madam Speaker, I am opposed.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Beyer moves to recommit the bill H.R. 3697 to the Committee on the Judiciary with instructions to report the same back to the

House forthwith with the following amendment:

Add, at the end of the bill, the following:
SEC. ____ PROTECTING INNOCENT RELIGIOUS WORKERS FROM DEPORTATION.

Nothing in this Act or the amendments made by this Act may be construed to authorize the deportation of an alien for action taken on behalf of a religious organization whose primary purpose is the provision of humanitarian assistance or aid.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia is recognized for 5 minutes in support of his motion.

Mr. BEYER. Madam Speaker, this is the final amendment to the bill, which will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

I offer this amendment to recommit to reveal the flaws in the bill. The sponsor of this bill, Mrs. COMSTOCK and I both represent northern Virginia, and she and I both want to eliminate gang violence. MS–13 is a menace to society, and I endorse the goal of destroying it through legal means, but this bill wouldn’t do that.

This bill will promote widespread racial profiling. It will violate First Amendment protections. It will expand mandatory detention of immigrants. It will raise serious constitutional questions on judicial review of government designation of certain groups. And it bars humanitarian relief for individuals in violation of international treaties.

I take gang violence and MS–13 very seriously. The young man Mrs. COMSTOCK referred to, found dead in a park in my city of Alexandria, was actually found by a dear family friend. But we can do this in a bill that doesn’t promote racial profiling or violate the Constitution.

So in this motion to recommit, we offer language to get at one of the most glaring flaws in this bill that it can go after humanitarian workers. The Criminal Alien Gang Member Removal Act creates an overly broad definition of a criminal gang by allowing DHS to essentially designate any individual as a gang member.

As written, it could cover a wide range of organizations ranging from churches to fraternities, to political groups. This will allow ICE to target people who may or may not appear to be in a gang and charge all those who seem in any way connected to individual members of a gang.

Religious workers who are engaged in immigrant ministry could be subject to prosecution. Immigrant ministry is not smuggling in airless trucks. In my district, we have a number of faith communities who provide for the unemployed, the homeless, those without language. Already, ICE swept up half a dozen men as they exited a church service. Under this bill, the pastor could be next.

If a nun, through her work, interacts with a potential gang member, she, by the context of this bill, could be a gang

member. It is not accidental that the Catholic bishops and the nuns have written to oppose this bill. The harboring provisions are so sweeping, the religious workers who provide shelter, transportation, or support to undocumented immigrants could be found liable of criminal activity. And this is not transportation across the U.S. border. This is transportation to work or to English lesson classes.

It is incredibly concerning that it would subject people who have never committed a crime, never been arrested, never been indicted, to deportation; and it would apply retroactively. Indeed, mere suspicion of involvement in harboring could classify individuals as gang members.

So it is very obvious here that humanitarian exemption is needed, but that is not the only concern with this bill language. The overly broad definition would empower immigrant authorities to conduct dragnet sweeps of Latino communities and other communities of color.

Media reports make it clear that law enforcement has recently relied on questionable and unreliable evidence to assert that Latino individuals are gang members, including wearing certain kinds of clothes or doodling in an area code from a Latin American country on a school notebook.

Officers have alleged gang membership sometimes based on merely being seen with people who are alleged gang members or living in neighborhoods known to suffer gang activity. This expansive language could and will sweep up people who have committed no criminal activity whatsoever.

As a representative of Virginia, a State with a long and troubled history with race, I think we need to be very careful before we implement policies that allow for structural racism. This bill has many more flaws, which general debate covered. But I want to be clear, before we pass this bill and start locking up nuns and priests and other religious workers, we should not continue this one-dimensional conversation on immigration policy.

We cannot focus only on enforcement and a mass deportation agenda. It doesn't fix our immigration system. We have got to work on comprehensive immigration reform, and we begin with the President's recent decision to eliminate DACA and put Congress on the clock. We should be acting today to protect our DREAMers. 800,000 young immigrants—not members of MS-13—lives depend on it. I urge my colleagues to vote for this motion to recommit.

Madam Speaker, I yield back the balance of my time.

Mrs. COMSTOCK. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Virginia is recognized for 5 minutes.

Mrs. COMSTOCK. Madam Speaker, in 2015, at an Alexandria playground in Mr. BEYER's district, 8 miles from this

Capitol, the body of a 24-year-old man was left nearly decapitated in a grisly murder by one of the thousands of MS-13 gang members in our country. I should also mention that that victim was also an MS-13 gang member.

This very Capital region has the second highest number of MS-13 gang members. Criminal alien gang members are growing in numbers in our region around the country and wrecking havoc in my district and in this very region. Without stronger tools to specifically target those specific aliens—this bill targets them—that terrorize our streets, gangs like MS-13 will then continue to grow in numbers and strength if we aren't targeting them. The time has come to take action and provide a path for deportation for violent criminal gang members.

ICE has found that membership of these violent transnational gangs is comprised largely of foreign-born nationals. Often bearing the brunt of these gangs' violence are the very immigrant communities in which they reside. They target their own communities. We have seen that in my region and in my district, and that is why this is so troubling.

The Criminal Alien Gang Member Removal Act will address this. Those gang members who have successfully evaded prosecution through witness intimidation, employing the tactics of fear and violence will now be within ICE's reach. The new grounds of removability provided by H.R. 3697 will help get criminal gang members off our streets.

ICE's recent Operation New Dawn has resulted in almost 1,100 arrests of gang members. Had this bill been enacted prior, that number could have increased. This bill is only starting the removal process, however.

Make no mistake, regular immigration proceedings will still apply. The government must prove its case and provide evidence to convince an immigration judge. This bill preserves all due process and appellate rights afforded to any alien facing deportation.

The time for this bill is long overdue. It was introduced to target criminal gangs, as that term is commonly understood, and that is what it will do once it is enacted.

I urge my colleagues to vote down this motion to recommit, to vote for the base bill, H.R. 3697, and to provide ICE with the tools it needs to keep dangerous criminal alien gang members off our streets, out of our communities, and out of our country.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BEYER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 184, nays 220, not voting 29, as follows:

[Roll No. 516]

YEAS—184

Adams	Gonzalez (TX)	O'Halleran
Aguilar	Gottheimer	O'Rourke
Barragan	Green, Al	Pallone
Bass	Green, Gene	Panetta
Beatty	Grijalva	Pascarella
Bera	Gutiérrez	Payne
Beyer	Hanabusa	Pelosi
Bishop (GA)	Hastings	Perlmutter
Blumenauer	Heck	Peters
Blunt Rochester	Higgins (NY)	Peterson
Bonamici	Himes	Pingree
Boyle, Brendan	Hoyer	Pocan
F.	Huffman	Polis
Brady (PA)	Jackson Lee	Price (NC)
Brown (MD)	Jayapal	Quigley
Brownley (CA)	Jeffries	Raskin
Bustos	Johnson (GA)	Rice (NY)
Butterfield	Johnson, E. B.	Richmond
Capuano	Kaptur	Rosen
Carbajal	Keating	Roybal-Allard
Carson (IN)	Kelly (IL)	Ruiz
Cartwright	Kennedy	Ruppersberger
Castor (FL)	Khanna	Rush
Castro (TX)	Kihuen	Ryan (OH)
Chu, Judy	Kildee	Sánchez
Cicilline	Kilmer	Sarbanes
Clark (MA)	Kind	Schakowsky
Clarke (NY)	Krishnamoorthi	Schiff
Clay	Kuster (NH)	Schneider
Cohen	Langevin	Schrader
Connolly	Larsen (WA)	Scott (VA)
Conyers	Lawrence	Scott, David
Cooper	Lee	Serrano
Correa	Levin	Sewell (AL)
Courtney	Lewis (GA)	Shea-Porter
Crowley	Lieu, Ted	Sherman
Cuellar	Lipinski	Sires
Cummings	Loeb sack	Slaughter
Davis (CA)	Lofgren	Smith (WA)
Davis, Danny	Lowenthal	Soto
DeFazio	Lowe y	Speier
DeGette	Lujan Grisham,	Suozzi
Delaney	M.	Swalwell (CA)
DelBene	Luján, Ben Ray	Takano
Demings	Lynch	Thompson (CA)
DeSaulnier	Maloney,	Thompson (MS)
Deutch	Carolyn B.	Titus
Dingell	Maloney, Sean	Tonko
Doggett	Matsui	Torres
Doyle, Michael	McCollum	Tsongas
F.	McEachin	Vargas
Ellison	McGovern	Veasey
Engel	McNerney	Vela
Eshoo	Meeks	Velázquez
Españolat	Meng	Vislosky
Esty (CT)	Moore	Walz
Evans	Moulton	Wasserman
Foster	Murphy (FL)	Schultz
Fudge	Nadler	Waters, Maxine
Gabbard	Napolitano	Watson Coleman
Gallego	Neal	Welch
Garamendi	Nolan	Wilson (FL)
Gomez	Norcross	Yarmuth

NAYS—220

Abraham	Blum	Collins (NY)
Aderholt	Bost	Comer
Allen	Brady (TX)	Comstock
Amash	Brat	Conaway
Amodei	Brooks (AL)	Cook
Arrington	Brooks (IN)	Costello (PA)
Babin	Buchanan	Cramer
Bacon	Buck	Crawford
Banks (IN)	Bucshon	Culberson
Barletta	Budd	Curbelo (FL)
Barr	Burgess	Davidson
Barton	Byrne	Davis, Rodney
Bergman	Calvert	Denham
Biggs	Carter (TX)	Dent
Bilirakis	Chabot	DeSantis
Bishop (MI)	Cheney	DesJarlais
Bishop (UT)	Coffman	Donovan
Black	Cole	Duncan (SC)
Blackburn	Collins (GA)	Duncan (TN)

Dunn Kinzinger
Emmer Knight
Estes (KS) Kustoff (TN)
Farenthold Labrador
Faso LaHood
Ferguson LaMalfa
Fitzpatrick Lamborn
Fleischmann Lance
Flores Latta
Fortenberry Lewis (MN)
Foxy LoBiondo
Franks (AZ) Long
Frelinghuysen Love
Gaetz Lucas
Gallagher Luetkemeyer
Gianforte MacArthur
Gibbs Marchant
Gohmert Marino
Goodlatte Marshall
Gowdy Massie
Granger Mast
Graves (GA) McCarthy
Graves (LA) McCaul
Grothman McClintock
Guthrie McHenry
Handel McKinley
Harper McMorris
Harris Rodgers
Hartzler McSally
Hensarling Meadows
Herrera Beutler Meehan
Hice, Jody B. Messer
Higgins (LA) Mitchell
Hill Moolenaar
Holding Mooney (WV)
Hollingsworth Mullin
Hudson Murphy (PA)
Huizenga Newhouse
Hultgren Noem
Hunter Norman
Hurd Nunes
Issa Palazzo
Jenkins (KS) Palmer
Jenkins (WV) Paulsen
Johnson (LA) Pearce
Johnson (OH) Perry
Johnson, Sam Pittenger
Jones Poe (TX)
Jordan Poliquin
Joyce (OH) Ratcliffe
Katko Reed
Kelly (MS) Reichert
Kelly (PA) Renacci
King (IA) Rice (SC)
King (NY) Roby

NOT VOTING—29

Bridenstine Frankel (FL)
Cárdenas Garrett
Carter (GA) Gosar
Cleaver Graves (MO)
Clyburn Griffith
Costa Larson (CT)
Crist Lawson (FL)
DeLauro Loudermilk
Diaz-Balart Olson
Duffy Posey

□ 1050

Messrs. FARENTHOLD, LEWIS of Minnesota, and COLLINS of New York changed their vote from “yea” to “nay.”

Ms. PINGREE, Mr. BRENDAN F. BOYLE of Pennsylvania, Mses. MCCOLLUM and SEWELL of Alabama, Messrs. KENNEDY, HOYER, GUTIERREZ, HIGGINS of New York, and MCNERNEY changed their vote from “nay” to “yea.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. LOFGREN. Madam Speaker, on that I demand the yeas and nays.

Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Roskam
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Westerman
Williams
Wilson (SC)
Wittman
Womack
Yoder
Young (AK)
Young (IA)
Zeldin

Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Ross
Rutherford
Scalise
Sinema
Tiberi
Yoho

PARLIAMENTARY INQUIRY
Mr. COHEN. Madam Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. COHEN. Madam Speaker, I am a member of the Judiciary Committee, and I have never seen this bill before. Under regular order, it should go to our committee for a hearing and for a markup. Has this bill had a hearing and a markup in any committee, or has it just sprung on this floor like something out of the ocean in Greek mythology?

The SPEAKER pro tempore. The Chair is counting for the yeas and nays. The gentleman’s inquiry will not be entertained.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 175, not voting 25, as follows:

[Roll No. 517]

YEAS—233

Abraham Faso
Aderholt Ferguson
Allen Fitzpatrick
Amodei Fleischmann
Arrington Flores
Babin Fortenberry
Bacon Foxx
Banks (IN) Franks (AZ)
Barletta Frelinghuysen
Barr Marino
Barton Marshall
Bergman Massie
Biggs Mast
Bilirakis McCarthy
Bishop (MI) McCaul
Bishop (UT) McClintock
Black McHenry
Blackburn McKinley
Blum McMorris
Bost Graves (LA)
Brady (TX) Griffith
Brat Grothman
Brooks (AL) Guthrie
Brooks (IN) Handel
Buchanan Harper
Buck Harris
Bucshon Hartzler
Budd Hensarling
Burgess Herrera Beutler
Byrne Hice, Jody B.
Calvert Higgins (LA)
Carbajal Hill
Carter (TX) Holding
Chabot Hollingsworth
Cheney Hudson
Coffman Huizenga
Cole Hultgren
Collins (GA) Hunter
Collins (NY) Hurd
Comer Issa
Comstock Jenkins (KS)
Conaway Jenkins (WV)
Cook Johnson (LA)
Costello (PA) Johnson (OH)
Cramer Johnson, Sam
Crawford Jones
Cuellar Jordan
Culberson Joyce (OH)
Curbelo (FL) Katko
Davidson Kelly (MS)
Davis, Rodney Kelly (PA)
Denham Kihuen
Dent King (IA)
DeSantis King (NY)
DesJarlais Kinzinger
Donovan Knight
Duffy Kustoff (TN)
Duncan (SC) Labrador
Duncan (TN) LaHood
Dunn LaMalfa
Emmer Lamborn
Estes (KS) Lance
Farenthold Latta

Sanford
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik

Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker

Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Westrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Young (AK)
Young (IA)
Zeldin

NAYS—175

Adams
Aguilar
Amash
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cohen
Connolly
Conyers
Cooper
Correa
Courtney
Crowley
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Españall
Esty (CT)
Evans
Foster
Fudge
Gabbard

Gallego
Garamendi
Gomez
Gonzalez (TX)
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Lawrence
Lee
Levin
Lewis (GA)
Lieu, Ted
Loeb sack
Lofgren
Lowenthal
Lowe
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney,
Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Nadler
Napolitano
Neal

Nolan
Norcross
O’Rourke
Pallone
Panetta
Pascarell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schraeder
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman
Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—25

Bridenstine
Carter (GA)
Cleaver
Clyburn
Costa
Crist
DeLauro
Diaz-Balart
Frankel (FL)

Garrett
Gosar
Graves (MO)
Larson (CT)
Lawson (FL)
Loudermilk
Pelosi
Posey
Rooney, Francis

Rooney, Thomas J.
Ros-Lehtinen
Ross
Rutherford
Scalise
Tiberi
Yoho

□ 1059

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEPARTMENT OF THE INTERIOR,
ENVIRONMENT, AND RELATED
AGENCIES APPROPRIATIONS
ACT, 2018

The SPEAKER pro tempore. Pursuant to House Resolution 504 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 3354.

Will the gentlewoman from North Carolina (Ms. FOXX) kindly resume the chair.

□ 1101

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 3354) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2018, and for other purposes, with Ms. FOXX (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Wednesday, September 13, 2017, amendment No. 187 printed in House Report 115–297 offered by the gentleman from Ohio (Mr. GIBBS) had been disposed of.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 115–297 on which further proceedings were postponed, in the following order:

Amendment No. 192 by Mr. PALMER of Alabama.

Amendment No. 195 by Mr. GOHMERT of Texas.

Amendment No. 196 by Ms. NORTON of the District of Columbia.

Amendment No. 199 by Mr. ELLISON of Minnesota.

Amendment No. 200 by Mr. ELLISON of Minnesota.

Amendment No. 201 by Mr. ELLISON of Minnesota.

Amendment No. 204 by Mr. MITCHELL of Michigan.

Amendment No. 207 by Mr. HUIZENGA of Michigan.

Amendment No. 223 by Ms. JACKSON LEE of Texas.

The Chair will reduce to 2 minutes the minimum time for any electronic vote in this series.

AMENDMENT NO. 192 OFFERED BY MR. PALMER

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Alabama (Mr. PALMER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 194, not voting 25, as follows:

[Roll No. 518]

AYES—214

Abraham	Gowdy	Newhouse
Aderholt	Granger	Noem
Allen	Graves (GA)	Norman
Amash	Graves (LA)	Nunes
Amodei	Griffith	Olson
Arrington	Grothman	Palazzo
Babin	Guthrie	Palmer
Bacon	Handel	Paulsen
Banks (IN)	Harper	Pearce
Barletta	Harris	Perry
Barr	Hartzler	Peterson
Barton	Hensarling	Pittenger
Bergman	Herrera Beutler	Poe (TX)
Biggs	Hice, Jody B.	Ratcliffe
Bilirakis	Higgins (LA)	Reichert
Bishop (MI)	Hill	Renacci
Bishop (UT)	Holding	Rice (SC)
Black	Hollingsworth	Roby
Blackburn	Hudson	Roe (TN)
Blum	Huizenga	Rogers (AL)
Bost	Hultgren	Rogers (KY)
Brady (TX)	Hunter	Rohrabacher
Brat	Hurd	Rokita
Brooks (AL)	Issa	Roskam
Brooks (IN)	Jenkins (KS)	Rothfus
Buchanan	Jenkins (WV)	Rouzer
Buck	Johnson (LA)	Royce (CA)
Bucshon	Johnson (OH)	Russell
Budd	Johnson, Sam	Sanford
Burgess	Jones	Schweikert
Byrne	Jordan	Scott, Austin
Calvert	Joyce (OH)	Scott, Austin
Carter (TX)	Kelly (MS)	Sensenbrenner
Chabot	Kelly (PA)	Sessions
Cheney	King (IA)	Shimkus
Cole	King (NY)	Shuster
Collins (GA)	Kinzinger	Simpson
Collins (NY)	Knight	Smith (MO)
Comer	Kustoff (TN)	Smith (NE)
Comstock	Labrador	Smith (NJ)
Conaway	LaHood	Smith (TX)
Cook	LaMalfa	Smucker
Cramer	Lamborn	Stewart
Crawford	Lance	Stivers
Culberson	Latta	Taylor
Davidson	Lewis (MN)	Tenney
Davis, Rodney	Lipinski	Thompson (PA)
Denham	LoBiondo	Thornberry
DeSantis	Long	Tipton
DesJarlais	Love	Trott
Donovan	Lucas	Turner
Duffy	Luetkemeyer	Upton
Duncan (SC)	MacArthur	Valadao
Duncan (TN)	Marchant	Wagner
Dunn	Marino	Walberg
Emmer	Marshall	Walden
Estes (KS)	Massie	Walker
Farenthold	Mast	Walorski
Faso	McCarthy	Walters, Mimi
Ferguson	McCaul	Weber (TX)
Fleischmann	McClintock	Webster (FL)
Flores	McHenry	Wenstrup
Fortenberry	McKinley	Westerman
Fox	McMorris	Williams
Franks (AZ)	Rodgers	Wilson (SC)
Frelinghuysen	Meadows	Wittman
Gaetz	Messer	Womack
Gallagher	Mitchell	Woodall
Gianforte	Moolenaar	Yoder
Gibbs	Mooney (WV)	Young (AK)
Gohmert	Mullin	Young (IA)
Goodlatte	Murphy (PA)	Zeldin

NOES—194

Adams	Brownley (CA)	Coffman
Aguilar	Bustos	Cohen
Barragán	Butterfield	Connolly
Bass	Capuano	Conyers
Beatty	Carbajal	Cooper
Bera	Cárdenas	Correa
Beyer	Carson (IN)	Costello (PA)
Bishop (GA)	Cartwright	Courtney
Blumenauer	Castor (FL)	Crowley
Blunt Rochester	Castro (TX)	Cuellar
Bonamici	Chu, Judy	Cummings
Boyle, Brendan	Cicilline	Curbelo (FL)
F.	Clark (MA)	Davis (CA)
Brady (PA)	Clarke (NY)	Davis, Danny
Brown (MD)	Clay	DeFazio

DeGette	Krishnamoorthi	Reed
Delaney	Kuster (NH)	Rice (NY)
DelBene	Langevin	Richmond
Demings	Larsen (WA)	Rosen
Dent	Lawrence	Royal-Allard
DeSaulnier	Lee	Ruiz
Deutch	Levin	Ruppersberger
Dingell	Lewis (GA)	Rush
Doggett	Lieu, Ted	Ryan (OH)
Doyle, Michael	Loeb sack	Sánchez
F.	Lofgren	Sarbanes
Ellison	Lowenthal	Schakowsky
Engel	Lowey	Schiff
Eshoo	Lujan Grisham,	Schneider
Espallat	M.	Schrader
Esty (CT)	Luján, Ben Ray	Scott (VA)
Evans	Lynch	Scott, David
Fitzpatrick	Maloney,	Serrano
Gabbard	Foster	Carolyn B.
Gallego	Maloney, Sean	Sewell (AL)
Garamendi	Matsui	Shea-Porter
Gomez	McCollum	Sherman
Gonzalez (TX)	McEachin	Sinema
Gottheimer	McGovern	Sires
Green, Al	McNerney	Slaughter
Green, Gene	McSally	Smith (WA)
Grijalva	Meehan	Soto
Gutiérrez	Meeks	Speier
Hanabusa	Meng	Stefanik
Hastings	Moore	Suozi
Heck	Moulton	Swaiwell (CA)
Higgins (NY)	Murphy (FL)	Takano
Himes	Nadler	Thompson (CA)
Hoyer	Napolitano	Thompson (MS)
Huffman	Neal	Titus
Jackson Lee	Nolan	Tonko
Jayapal	Norcross	Torres
Jeffries	O'Halleran	Tsongas
Johnson (GA)	O'Rourke	Vargas
Johnson, E. B.	Pallone	Veasey
Kaptur	Panetta	Vela
Katko	Pascrell	Velázquez
Keating	Payne	Visclosky
Kelly (IL)	Perlmutter	Walz
Kennedy	Peters	Wasserman
Khanna	Pingree	Schultz
Kihuen	Pocan	Waters, Maxine
Kildee	Poliquin	Watson Coleman
Kilmer	Polis	Welch
Kind	Price (NC)	Wilson (FL)
	Quigley	Yarmuth
	Raskin	

NOT VOTING—25

Bridenstine	Garrett	Rooney, Thomas
Carter (GA)	Gosar	J.
Cleaver	Graves (MO)	Ros-Lehtinen
Clyburn	Larson (CT)	Ross
Costa	Lawson (FL)	Rutherford
Crist	Loudermilk	Scalise
DeLauro	Pelosi	Tiberi
Diaz-Balart	Posey	Yoho
Frankel (FL)	Rooney, Francis	

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).
There is 1 minute remaining.

□ 1106

Mr. COFFMAN changed his vote from “aye” to “no.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 195 OFFERED BY MR. GOHMERT

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. GOHMERT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.