115TH CONGRESS
2D SESSION

H. R. ______

To amend the Immigration and Nationality Act to provide that individuals who naturalized under title III of that Act, who are affiliated with a criminal gang, are subject to revocation of citizenship, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Immigration and Nationality Act to provide that individuals who naturalized under title III of that Act, who are affiliated with a criminal gang, are subject to revocation of citizenship, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Protecting Our Com-
5 munities from Gang Violence Act of 2018”.

(Original Signature of Member)
SEC. 2. CRIMINAL GANG MEMBERS AND SUPPORTERS QUALIFIED FROM GOOD MORAL CHARACTER PROVISION.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”;

(3) by inserting after paragraph (9), the following:

“(10) one whom the Secretary of Homeland Security or the Attorney General determines, in the unreviewable discretion of the Secretary of Homeland Security or the Attorney General, to be an alien who—

“(A) is or has ever been a member, associate or affiliate of, or who has ever provided material support to, a criminal gang; or

“(B) is or has ever been a member, associate or affiliate of, or who has ever provided material support to, a criminal street gang as defined in section 520 of title 18, United States Code.”; and

(4) by adding at the end, at the end of the matter following paragraph (10) (as inserted in this sec-
tion) the following: “A determination by the Secretary of Homeland Security or Attorney General that an alien does not exhibit good moral character based on gang membership, association, affiliation, or provision of material support, may be based upon any relevant information or evidence, including classified, law enforcement sensitive, or national security information and shall be binding upon any court regardless of the applicable standard of review.”.

SEC. 3. DEFINITION OF CRIMINAL GANG.

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 of-
fenses 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).”.

SEC. 4. PROHIBITION AGAINST FILING.

No person who—

(1) is or has ever been a member, associate or affiliate of, or who has ever provided material support to, a criminal gang as defined in section 101 of the Immigration and Nationality Act; or

(2) is or has ever been a member, associate or affiliate of, or who has ever provided material support to, a criminal street gang as defined in section 520 of title 18 of the United States Code,

shall be permitted to file an application or petition, or submit an affidavit of support, on behalf of an alien under any provision of the immigration laws, nor shall such per-
son be permitted to assume custodial care for an unac-
panied alien minor.

SEC. 5. DENATURALIZATION OF CRIMINAL GANG MEMBERS
AND SUPPORTERS.

Section 340 of the Immigration and Nationality Act
(8 U.S.C. 1451) is amended by striking subsection (c) and
inserting the following language—

“(c) MEMBERSHIP IN CERTAIN ORGANIZATIONS;
PRIMA FACIE EVIDENCE.—

“(1) IN GENERAL.—If a person who shall have
been naturalized after December 24, 1952 shall
within 10 years following such naturalization become
a member of or affiliated with any organization,
membership in or affiliation with which at the time
of naturalization would have precluded such person
from naturalization under the provisions of section
313, it shall be considered prima facie evidence that
such person was not attached to the principles of the
Constitution of the United States and was not well
disposed to the good order and happiness of the
United States at the time of naturalization, and, in
the absence of countervailing evidence, it shall be
sufficient in the proper proceeding to authorize the
revocation and setting aside of the order admitting
such person to citizenship and the cancellation of the
certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

“(2) ORGANIZATION, MEMBERSHIP IN OR AFFILIATION WITH WHICH AT THE TIME OF NATURALIZATION WOULD HAVE PRECLUDED SUCH PERSON FROM NATURALIZATION.—The phrase ‘any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization’ shall be deemed to include an alien who—

“(A) is or has ever been a member, associate or affiliate of, or who has ever provided material support to, a criminal gang; or

“(B) is or has ever been a member, associate or affiliate of, or who has ever provided material support to, a criminal street gang as defined in section 520 of title 18 of the United States Code.”.
SEC. 6. EFFECTIVE DATE AND APPLICATION.

The amendments made by this Act shall take effect on the date of the enactment, shall apply to any act that occurred before, on, or after the date of enactment, and shall apply to any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws pending on or filed after the date of enactment of this Act.