



Summary of H.R. 4856

A bill to make aliens associated with a criminal gang inadmissible, deportable, and ineligible for various forms of relief.

May 2016

H.R. 4856, introduced by Representative Paul Gosar (R-AZ), would amend the Immigration and Nationality Act (INA) to prohibit criminal gang members from being admitted to the United States. This bill is a companion bill to S. 1120, introduced by Senator Chuck Grassley (R-IA).

Prohibit Criminal Gang Members From Immigration Benefits

- Section 1(a) adds INA Section 101(a)(53)(A) to statutory define “criminal gang.” Importantly, this definition applies to conduct committed “before, on, or after” the date of enactment.
- Section 1(b) adds INA Section 212(a)(2)(J) to prohibit aliens who are or were members of a criminal gang from being admitted into the United States. This ground of inadmissibility also applies to aliens who participated in activities “knowing or having reason to know” that it was criminal gang activity.
- Section 1(c) adds INA Section 237(a)(2)(J), making aliens that are members of criminal gangs or have participated in criminal gang activities deportable. This section allows the Secretary of Homeland Security and the Attorney General to make this determination.
- Section 1(d) adds INA Section 220, providing that the DHS Secretary, in consultation with the Attorney General or Secretary of State, may designate a group or association as a criminal gang. This designation remains effective until the DHS Secretary, Attorney General, and Secretary of State agree to revoke it, or designation is terminated by Federal law.
- Section 1(e) makes alien criminal gang members subject to mandatory detention by DHS. This section also requires DHS to annually report to the Senate and House

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Judiciary committees on the number of criminal alien gang members detained under this provision.

- This bill makes criminal gang members ineligible for asylum, Temporary Protected Status, and Special Immigration Juvenile Visas. (Sections 1(f)-(h)) Section 1(f) also exempts criminal gang members from INA 241(b)(3)'s restriction on removal.
- Make criminal gang members ineligible for deferred action, and limits use of parole unless that gang member helps in a law enforcement matter and is needed in the United States to provide that help. (Sections 1(i)-(j))
- Section 2 makes the following aliens detained at a land port-of-entry subject to INA Section 235 mandatory expedited removal: (1) aliens convicted of any offense with maximum imprisonment exceeds 180 days; (2) aliens convicted of domestic violence, child abuse or neglect, assault, drunk driving; and aliens who violated a protection order or committed an offense under foreign law (except political offenses) that make them inadmissible under INA Section 212(a); (3) aliens convicted of more than 1 crime (other than minor traffic violations); (4) aliens involved in terrorist activity; (5) alien criminal street gang members; and (6) aliens who have "knowingly" illegally entered the U.S. more than one time.

Why this Legislation is Necessary

Despite President Obama's claims that his administration prioritizes removing dangerous criminal aliens, his administration has granted executive amnesty to known gang members. Since 2013, the Department of Homeland Security has granted Deferred Action for Childhood Arrivals to at least 282 known gang members and criminals. Furthermore, the "catch and release" enforcement policy instituted by this administration, as well as the surge in unaccompanied alien minors (UAM), has resulted in a huge uptick in alien gang members entering the United States. This bill explicitly prevents the federal government from providing safe haven to criminal alien gang members by ensuring that aliens involved in criminal gang activity are inadmissible, are ineligible to receive any form of relief from the federal government, and are subject to deportation.

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