

117TH CONGRESS
1ST SESSION

S. 1045

To amend the Immigration and Nationality Act to facilitate the removal of aliens identified in the terrorist screening database, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to facilitate the removal of aliens identified in the terrorist screening database, 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 “Terrorist Deportation
5 Act of 2021”.

6 **SEC. 2. INADMISSIBILITY OF ALIENS IDENTIFIED IN TER-**
7 **RORIST SCREENING DATABASE.**

8 Section 212(a)(3)(B)(i) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

1 (1) in subclause (VIII), by striking “or” at the
2 end;

3 (2) by redesignating subclause (IX) as sub-
4 clause (X); and

5 (3) by inserting after subclause (VIII) the fol-
6 lowing:

7 “(IX) is identified in the terrorist
8 screening database (as such term is
9 defined in section 2101(10) of the
10 Homeland Security Act of 2002 (6
11 U.S.C. 621(10))), except for an alien
12 lawfully admitted for permanent resi-
13 dence (as defined in section
14 101(a)(20)); or”.

15 **SEC. 3. DEPORTABILITY OF ALIENS IDENTIFIED IN TER-**
16 **RORIST SCREENING DATABASE.**

17 Section 237(a)(4)(B) of the Immigration and Nation-
18 ality Act (8 U.S.C. 1227(a)(4)(B)) is amended by insert-
19 ing before the period at the end the following “, except
20 that an alien lawfully admitted for permanent residence
21 (as defined in section 101(a)(20)) is not deportable for
22 being described in subparagraph (B)(i)(IX) of section
23 212(a)(3)”.

1 **SEC. 4. WAIVERS OF GROUND OF INADMISSIBILITY FOR**
2 **ALIENS IDENTIFIED IN TERRORIST SCREEN-**
3 **ING DATABASE.**

4 Section 212(d)(3) of the Immigration and Nationality
5 Act (8 U.S.C. 1182(d)(3)) is amended—

6 (1) in each of clauses (i) and (ii) of subpara-
7 graph (A), by inserting “and other than paragraph
8 (3)(B)(i)(IX) of such subsection except as provided
9 in subparagraph (C)” after “of such subsection”;

10 (2) in subparagraph (B)(i), by inserting “or
11 who is within the scope of subsection
12 (a)(3)(B)(i)(IX) except as provided in subparagraph
13 (C),” after “(a)(3)(B)(i)(II),”; and

14 (3) by adding at the end the following:

15 “(C)(i) Subject to clause (ii) and only on an indi-
16 vidual case-by-case basis, if the Secretary of Homeland Se-
17 curity determines in the Secretary’s unreviewable discre-
18 tion that it is in the national security interests of the
19 United States, an alien—

20 “(I) may be granted a nonimmigrant visa and
21 be admitted into the United States temporarily as a
22 nonimmigrant under subparagraph (A)(i);

23 “(II) may be admitted into the United States
24 temporarily as a nonimmigrant under subparagraph
25 (A)(ii); and

1 “(III) shall not be subject to subsection
2 (a)(3)(B)(i)(IX).

3 “(ii) The Secretary of Homeland Security may grant
4 a waiver under clause (i) with respect to an alien only with
5 the unanimous concurrence of the Attorney General, the
6 Director of the Federal Bureau of Investigation, the Di-
7 rector of National Intelligence, and the Secretary of
8 State.”.

9 **SEC. 5. UNAVAILABILITY OF CERTAIN IMMIGRATION BENE-**
10 **FITS TO ALIENS IDENTIFIED IN TERRORIST**
11 **SCREENING DATABASE.**

12 (a) ASYLUM.—Section 208(b)(2)(A)(v) of the Immi-
13 gration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v))
14 is amended by striking “or (VI)” and inserting “(VI), or
15 (IX)”.

16 (b) WITHHOLDING OF REMOVAL.—Section
17 241(b)(3)(B) of the Immigration and Nationality Act (8
18 U.S.C. 1231(b)(3)(B)) is amended, in the matter pre-
19 ceding clause (i), by inserting “inadmissible under section
20 212(a)(3)(B)(i)(IX) or deportable under section
21 237(a)(4)(B) as a consequence of being described in sec-
22 tion 212(a)(3)(B)(i)(IX), or” after “does not apply to an
23 alien”.

24 (c) CANCELLATION OF REMOVAL.—

1 (1) CANCELLATION OF REMOVAL FOR CERTAIN
2 PERMANENT RESIDENTS.—Section 240A(a) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1229b(a)) is amended, in the matter preceding para-
5 graph (1), by striking “inadmissible or deportable”
6 and inserting “inadmissible (except an alien who is
7 inadmissible under section 212(a)(3)(B)(i)(IX)) or
8 deportable (except an alien who is deportable under
9 section 237(a)(4)(B) as a consequence of being de-
10 scribed in section 212(a)(3)(B)(i)(IX))”.

11 (2) CANCELLATION OF REMOVAL FOR CERTAIN
12 NONPERMANENT RESIDENTS.—Section 240A(b)(1)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1229b(b)(1)) is amended, in the matter preceding
15 subparagraph (A), by striking “inadmissible or de-
16 portable” and inserting “inadmissible (except an
17 alien who is inadmissible under section
18 212(a)(3)(B)(i)(IX)) or deportable (except an alien
19 who is deportable under section 237(a)(4)(B) as a
20 consequence of being described in section
21 212(a)(3)(B)(i)(IX))”.

22 (d) VOLUNTARY DEPARTURE.—Section 240B(c) of
23 the Immigration and Nationality Act (8 U.S.C. 1229c(e))
24 is amended to read as follows:

1 “(c) ALIENS INELIGIBLE.—The Secretary of Home-
 2 land Security shall not permit an alien to depart volun-
 3 tarily under this section if the alien—

4 “(1) was previously permitted to so depart after
 5 having been found inadmissible under section
 6 212(a)(6)(A); or

7 “(2) is inadmissible under section
 8 212(a)(3)(B)(i)(IX) or deportable under section
 9 237(a)(4)(B) as a consequence of being described in
 10 section 212(a)(3)(B)(i)(IX).”.

11 (e) ADJUSTMENT OF STATUS.—Section 245 of the
 12 Immigration and Nationality Act (8 U.S.C. 1255) is
 13 amended—

14 (1) in subsection (c), by striking paragraph (6)
 15 and inserting “(6) an alien who is inadmissible
 16 under section 212(a)(3)(B)(i)(IX) or deportable
 17 under section 237(a)(4)(B);”; and

18 (2) in subsection (m)(1), in the matter pre-
 19 ceding subparagraph (A), by striking
 20 “212(a)(3)(E),” and inserting “subparagraph
 21 (B)(i)(IX) or (E) of section 212(a)(3) or section
 22 237(a)(4)(B) as a consequence of being described in
 23 section 212(a)(3)(B)(i)(IX).”.

24 (f) REGISTRY.—Section 249 of the Immigration and
 25 Nationality Act (8 U.S.C. 1259) is amended—

1 (1) by striking “Attorney General” each place
2 such term appears and inserting “Secretary of
3 Homeland Security”; and

4 (2) by striking “inadmissible under section
5 212(a)(3)(E) or under” and inserting “inadmissible
6 under section 212(a)(3)(B)(i)(IX) or (E) or deport-
7 able from the United States under section
8 237(a)(4)(B) as a consequence of being described in
9 section 212(a)(3)(B)(i)(IX) or under”.

10 (g) CONVENTION AGAINST TORTURE.—Not later
11 than 120 days after the date of the enactment of this Act,
12 the Secretary of Homeland Security shall revise the regu-
13 lations under sections 208.16 through 208.18 of title 8,
14 Code of Federal Regulations, implementing the United
15 Nations Convention Against Torture and Other Forms of
16 Cruel, Inhuman or Degrading Treatment or Punishment,
17 done at New York on December 10, 1984. The revised
18 regulations—

19 (1) shall exclude from the protection of such
20 regulations aliens described in section
21 212(a)(3)(B)(i)(IX) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1182(a)(3)(B)(i)(IX)) and make
23 such aliens ineligible for withholding or deferral of
24 removal under the immigration laws (as defined in

section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))); and

(2) shall ensure that the revised regulations operate so as to allow for the reopening and readjudication of determinations made under the regulations before the effective date of the revision and apply to acts and conditions constituting grounds of ineligibility for the protection of such regulations (including ineligibility for withholding or deferral of removal) as revised, regardless of when such acts or conditions occurred.

SEC. 6. EXPEDITED REMOVAL OF ALIENS INADMISSIBLE OR DEPORTABLE ON SECURITY AND RELATED GROUNDS.

Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is amended—

(1) in the section heading, by adding at the end the following: “OR INADMISSIBLE OR DEPORTABLE ON SECURITY OR RELATED GROUNDS”;

(2) by redesignating the subsections immediately following subsection (b) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

1 “(c) REMOVAL OF ALIENS WHO ARE NOT PERMA-
2 NENT RESIDENTS AND WHO ARE INADMISSIBLE OR DE-
3 PORTABLE ON SECURITY OR RELATED GROUNDS.—

4 “(1) IN GENERAL.—The Secretary of Homeland
5 Security, in accordance with paragraph (3)—

6 “(A) notwithstanding section 240, in the
7 case of every alien described in paragraph (2),
8 shall determine the inadmissibility of such alien
9 under section 212(a)(3)(B)(i)(IX) or the de-
10 portability of such alien under section
11 237(a)(4)(B) as a consequence of being de-
12 scribed in section 212(a)(3)(B)(i)(IX) and issue
13 an order of removal pursuant to the procedures
14 set forth in this subsection to every such alien
15 determined to be inadmissible under section
16 212(a)(3)(B)(i)(IX) or deportable under section
17 237(a)(4)(B) as a consequence of being de-
18 scribed in section 212(a)(3)(B)(i)(IX); and

19 “(B) in the case of an alien described in
20 paragraph (2) who is not issued an order under
21 subparagraph (A), may determine the inadmis-
22 sibility of such alien under section 212(a)(3)(B)
23 (other than subparagraph (B)(i)(IX)) or the de-
24 portability of such alien under section
25 237(a)(4)(B) (other than as a consequence of

1 being described in section 212(a)(3)(B)(i)(IX))
2 and issue an order of removal pursuant to the
3 procedures set forth in this subsection or sec-
4 tion 240.

5 “(2) ALIENS DESCRIBED.—An alien is de-
6 scribed in this paragraph if—

7 “(A) the alien has not been granted a
8 waiver under section 212(d)(3)(C); and

9 “(B) the alien—

10 “(i) was not lawfully admitted for per-
11 manent residence at the time at which pro-
12 ceedings under this subsection commenced;
13 or

14 “(ii) had permanent resident status
15 on a conditional basis (as described in sec-
16 tion 216) at the time that proceedings
17 under this subsection commenced.

18 “(3) EXPEDITED PROCEEDINGS.—Proceedings
19 under this subsection shall be in accordance with
20 such regulations as the Secretary of Homeland Secu-
21 rity shall prescribe. The Secretary shall ensure
22 that—

23 “(A) the alien is given reasonable notice of
24 the charges and of the opportunity described in
25 subparagraph (C);

1 “(B) the alien shall have the privilege of
2 being represented (at no expense to the govern-
3 ment) by such counsel, authorized to practice in
4 such proceedings, as the alien shall choose;

5 “(C) the alien has a reasonable oppor-
6 tunity to inspect the evidence and rebut the
7 charges;

8 “(D) a determination is made for the
9 record that the individual upon whom the notice
10 for the proceeding under this section is served
11 (either in person or by mail) is, in fact, the
12 alien named in such notice;

13 “(E) a record is maintained for judicial re-
14 view; and

15 “(F) the final order of removal is not adju-
16 dicated by the same person who issues the
17 charges.

18 “(4) JUDICIAL REVIEW.—The Secretary of
19 Homeland Security may not execute any order de-
20 scribed in paragraph (1) until 14 calendar days have
21 passed from the date that such order was issued, un-
22 less waived by the alien, in order that the alien has
23 an opportunity to apply for judicial review under
24 section 242.

1 “(5) INELIGIBILITY FOR DISCRETIONARY RE-
2 LIEF FROM REMOVAL.—No alien adjudicated inad-
3 missible or deportable in a proceeding under this
4 subsection shall be eligible for any relief from re-
5 moval that the Secretary of Homeland Security may
6 grant in the Secretary’s discretion.”.

7 **SEC. 7. EFFECTIVE DATE; APPLICABILITY.**

8 This Act and the amendments made by this Act shall
9 take effect on the date of the enactment of this Act and
10 shall apply to all aliens identified in the terrorist screening
11 database (as such term is defined in section 2101(10) of
12 the Homeland Security Act of 2002 (6 U.S.C. 621(10)))
13 on or after such date.

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