

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the provisions on the inadmissability
of aliens in criminal gangs.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY

Viz:

1 Strike section 3701 and insert the following:

2 **SEC. 3701. CRIMINAL GANGS.**

3 (a) DEFINITION OF CRIMINAL GANG.—Section
4 101(a) (8 U.S.C. 1101(a)) is amended by inserting after
5 paragraph (51) the following:

6 “(52)(A) The term ‘criminal gang’ means an ongoing
7 group, club, organization, or association of 5 or more per-
8 sons—

9 “(i) that has as 1 of its primary purposes the
10 commission of 1 or more of the criminal offenses de-
11 scribed in subparagraph (B); and

1 “(ii) the members of which engage, or have en-
2 gaged within the past 5 years, in a continuing series
3 of offenses described in subparagraph (B).

4 “(B) The offenses described in this subparagraph are
5 the following, whether in violation of Federal or State law
6 or in violation of the law of a foreign country:

7 “(i) A felony drug offense (as defined in section
8 102 of the Controlled Substances Act (21 U.S.C.
9 802)).

10 “(ii) A felony offense involving firearms or ex-
11 plosives or in violation of section 931 of title 18,
12 United States Code (relating to purchase, ownership,
13 or possession of body armor by violent felons).

14 “(iii) An offense under section 274 (relating to
15 bringing in and harboring certain aliens), section
16 277 (relating to aiding or assisting certain aliens to
17 enter the United States), or section 278 (relating to
18 importation of alien for immoral purpose).

19 “(iv) A felony crime of violence (as defined in
20 section 16 of title 18, United States Code).

21 “(v) A crime involving obstruction of justice,
22 tampering with or retaliating against a witness, vic-
23 tim, or informant, or burglary

24 “(vi) Any conduct punishable under sections
25 1028 and 1029 of title 18, United States Code (re-

1 relating to fraud and related activity in connection
2 with identification documents or access devices), sec-
3 tions 1581 through 1594 of such title (relating to
4 peonage, slavery and trafficking in persons), section
5 1952 of such title (relating to interstate and foreign
6 travel or transportation in aid of racketeering enter-
7 prises), section 1956 of such title (relating to the
8 laundering of monetary instruments), section 1957
9 of such title (relating to engaging in monetary trans-
10 actions in property derived from specified unlawful
11 activity), or sections 2312 through 2315 of such
12 title (relating to interstate transportation of stolen
13 motor vehicles or stolen property).

14 “(vii) Conspiracy to commit an offense de-
15 scribed in specified in clauses (i) through (vi).”.

16 (b) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C.
17 1182(a)(2)) is amended by inserting after subparagraph
18 (I) the following:

19 “(J) ALIENS IN CRIMINAL GANGS.—Any
20 alien is inadmissible who—

21 “(i) is a member of a criminal gang
22 unless the alien can demonstrate by clear
23 and convincing evidence that the alien did
24 not know, and should not reasonably have

1 known, that the organization was a crimi-
2 nal gang; and

3 “(ii) is determined by an immigration
4 judge to be a danger to the community.”.

5 (c) GROUNDS FOR DEPORTATION.—Section
6 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at
7 the end the following:

8 “(G) ALIENS IN CRIMINAL GANGS.—Any
9 alien is removable who—

10 “(i) is a member of a criminal gang
11 unless the alien can demonstrate by clear
12 and convincing evidence that the alien did
13 not know, and should not reasonably have
14 known, that the organization was a crimi-
15 nal gang; and

16 “(ii) is determined by an immigration
17 judge to be a danger to the community.”.

18 (d) GROUND OF INELIGIBILITY FOR REGISTERED
19 PROVISIONAL IMMIGRANT STATUS.—An alien who is 18
20 years of age or older is ineligible for registered provisional
21 immigrant status if the Secretary determines that the
22 alien—

23 (1) is a member of a criminal gang (as defined
24 in section 101(a)(52) of the Immigration and Na-
25 tionality Act, as amended by subsection (a)) unless

1 the alien can demonstrate by clear and convincing
2 evidence that the alien did not know, and should not
3 reasonably have known, that the organization was a
4 criminal gang; and
5 (2) has been determined by the Secretary to be
6 a danger to the community.