117TH CONGRESS
1ST SESSION

S. ______

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

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

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 TERRORIST SCREENING DATABASE.
7 Section 212(a)(3)(B)(i) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—
(1) in subclause (VIII), by striking “or” at the end;
(2) by redesignating subclause (IX) as subclause (X); and
(3) by inserting after subclause (VIII) the following:

“(IX) is identified in the terrorist screening database (as such term is defined in section 2101(10) of the Homeland Security Act of 2002 (6 U.S.C. 621(10))), except for an alien lawfully admitted for permanent residence (as defined in section 101(a)(20)); or”.

SEC. 3. DEPORTABILITY OF ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.

Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended by inserting before the period at the end the following “, except that an alien lawfully admitted for permanent residence (as defined in section 101(a)(20)) is not deportable for being described in subparagraph (B)(i)(IX) of section 212(a)(3)”.
SEC. 4. WAIVERS OF GROUND OF INADMISSIBILITY FOR

ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.

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

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

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

(3) by adding at the end the following:

“(C)(i) Subject to clause (ii) and only on an individual case-by-case basis, if the Secretary of Homeland Security determines in the Secretary’s unreviewable discretion that it is in the national security interests of the United States, an alien—

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

“(II) may be admitted into the United States temporarily as a nonimmigrant under subparagraph (A)(ii); and
“(III) shall not be subject to subsection (a)(3)(B)(i)(IX).

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

SEC. 5. UNAVAILABILITY OF CERTAIN IMMIGRATION BENEFITS TO ALIENS IDENTIFIED IN TERRORIST SCREENING DATABASE.

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

(b) WITHHOLDING OF REMOVAL.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting “inadmissible under section 212(a)(3)(B)(i)(IX) or deportable under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX), or” after “does not apply to an alien”.

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

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

(d) VOLUNTARY DEPARTURE.—Section 240B(e) of the Immigration and Nationality Act (8 U.S.C. 1229c(e)) is amended to read as follows:
“(c) ALIENS INELIGIBLE.—The Secretary of Homeland Security shall not permit an alien to depart voluntarily under this section if the alien—

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

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

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

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

(2) in subsection (m)(1), in the matter preceding subparagraph (A), by striking “212(a)(3)(E),” and inserting “subparagraph (B)(i)(IX) or (E) of section 212(a)(3) or section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX),”.

(f) REGISTRY.—Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended—
(1) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security"; and (2) by striking "inadmissible under section 212(a)(3)(E) or under" and inserting "inadmissible under section 212(a)(3)(B)(i)(IX) or (E) or deportable from the United States under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX) or under".

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

(1) shall exclude from the protection of such regulations aliens described in section 212(a)(3)(B)(i)(IX) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IX)) and make such aliens ineligible for withholding or deferral of 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:
"(c) Removal of Aliens Who Are Not Permanent Residents and Who Are Inadmissible or Deportable on Security or Related Grounds.—

"(1) In general.—The Secretary of Homeland Security, in accordance with paragraph (3)—

"(A) notwithstanding section 240, in the case of every alien described in paragraph (2), shall determine the inadmissibility of such alien under section 212(a)(3)(B)(i)(IX) or the deportability of such alien under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX) and issue an order of removal pursuant to the procedures set forth in this subsection to every such alien determined to be inadmissible under section 212(a)(3)(B)(i)(IX) or deportable under section 237(a)(4)(B) as a consequence of being described in section 212(a)(3)(B)(i)(IX); and

"(B) in the case of an alien described in paragraph (2) who is not issued an order under subparagraph (A), may determine the inadmissibility of such alien under section 212(a)(3)(B) (other than subparagraph (B)(i)(IX)) or the deportability of such alien under section 237(a)(4)(B) (other than as a consequence of
being described in section 212(a)(3)(B)(i)(IX))

and issue an order of removal pursuant to the
procedures set forth in this subsection or sec-
tion 240.

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

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

"(B) the alien—

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

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

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

"(A) the alien is given reasonable notice of
the charges and of the opportunity described in
subparagraph (C);
“(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

“(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

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

“(E) a record is maintained for judicial review; and

“(F) the final order of removal is not adjudicated by the same person who issues the charges.

“(4) JUDICIAL REVIEW.—The Secretary of Homeland Security may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 242.
“(5) Ineligibility for discretionary relief from removal.—No alien adjudicated inadmissible or deportable in a proceeding under this subsection shall be eligible for any relief from removal that the Secretary of Homeland Security may grant in the Secretary's discretion.”.

SEC. 7. EFFECTIVE DATE; APPLICABILITY.

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