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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

**H. R.**

To amend the Immigration and Nationality Act with respect to the detention of dangerous aliens, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. LESKO introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Immigration and Nationality Act with respect to the detention of dangerous aliens, 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. DETENTION OF DANGEROUS ALIENS.**

4       Section 241(a) of the Immigration and Nationality  
5       Act (8 U.S.C. 1231(a)) is amended—

6               (1) by striking “Attorney General” each place  
7       it appears, except for the first reference in para-  
8       graph (4)(B)(i), and inserting “Secretary of Home-  
9       land Security”;

1           (2) in paragraph (1), by amending subpara-  
2           graph (B) to read as follows:

3           “(B) BEGINNING OF PERIOD.—The re-  
4           moval period begins on the latest of the fol-  
5           lowing:

6                   “(i) The date the order of removal be-  
7                   comes administratively final.

8                   “(ii) If the alien is not in the custody  
9                   of the Secretary on the date the order of  
10                  removal becomes administratively final, the  
11                  date the alien is taken into such custody.

12                  “(iii) If the alien is detained or con-  
13                  fined (except under an immigration proc-  
14                  ess) on the date the order of removal be-  
15                  comes administratively final, the date the  
16                  alien is taken into the custody of the Sec-  
17                  retary, after the alien is released from such  
18                  detention or confinement.”;

19           (3) in paragraph (1), by amending subpara-  
20           graph (C) to read as follows:

21           “(C) SUSPENSION OF PERIOD.—

22                   “(i) EXTENSION.—The removal period  
23                   shall be extended beyond a period of 90  
24                   days and the Secretary may, in the Sec-

1           retary’s sole discretion, keep the alien in  
2           detention during such extended period if—

3                   “(I) the alien fails or refuses to  
4                   make all reasonable efforts to comply  
5                   with the removal order, or to fully co-  
6                   operate with the Secretary’s efforts to  
7                   establish the alien’s identity and carry  
8                   out the removal order, including mak-  
9                   ing timely application in good faith  
10                  for travel or other documents nec-  
11                  essary to the alien’s departure or con-  
12                  spires or acts to prevent the alien’s  
13                  removal that is subject to an order of  
14                  removal;

15                   “(II) a court, the Board of Immi-  
16                   gration Appeals, or an immigration  
17                   judge orders a stay of removal of an  
18                   alien who is subject to an administra-  
19                   tively final order of removal;

20                   “(III) the Secretary transfers  
21                   custody of the alien pursuant to law  
22                   to another Federal agency or a State  
23                   or local government agency in connec-  
24                   tion with the official duties of such  
25                   agency; or

1                   “(IV) a court or the Board of  
2                   Immigration Appeals orders a remand  
3                   to an immigration judge or the Board  
4                   of Immigration Appeals, during the  
5                   time period when the case is pending  
6                   a decision on remand (with the re-  
7                   moval period beginning anew on the  
8                   date that the alien is ordered removed  
9                   on remand).

10                   “(ii) RENEWAL.—If the removal pe-  
11                   riod has been extended under subpara-  
12                   graph (C)(i), a new removal period shall be  
13                   deemed to have begun on the date—

14                   “(I) the alien makes all reason-  
15                   able efforts to comply with the re-  
16                   moval order, or to fully cooperate with  
17                   the Secretary’s efforts to establish the  
18                   alien’s identity and carry out the re-  
19                   moval order;

20                   “(II) the stay of removal is no  
21                   longer in effect; or

22                   “(III) the alien is returned to the  
23                   custody of the Secretary.

24                   “(iii) MANDATORY DETENTION FOR  
25                   CERTAIN ALIENS.—In the case of an alien

1 described in subparagraphs (A) through  
2 (D) of section 236(c)(1), the Secretary  
3 shall keep that alien in detention during  
4 the extended period described in clause (i).

5 “(iv) SOLE FORM OF RELIEF.—An  
6 alien may seek relief from detention under  
7 this subparagraph only by filing an appli-  
8 cation for a writ of habeas corpus in ac-  
9 cordance with chapter 153 of title 28,  
10 United States Code. No alien whose period  
11 of detention is extended under this sub-  
12 paragraph shall have the right to seek re-  
13 lease on bond.”;

14 (4) in paragraph (3)—

15 (A) by adding after “If the alien does not  
16 leave or is not removed within the removal pe-  
17 riod” the following: “or is not detained pursu-  
18 ant to paragraph (6) of this subsection”; and

19 (B) by striking subparagraph (D) and in-  
20 serting the following:

21 “(D) to obey reasonable restrictions on the  
22 alien’s conduct or activities that the Secretary  
23 prescribes for the alien, in order to prevent the  
24 alien from absconding, for the protection of the

1 community, or for other purposes related to the  
2 enforcement of the immigration laws.”;

3 (5) in paragraph (4)(A), by striking “paragraph  
4 (2)” and inserting “subparagraph (B)”; and

5 (6) by striking paragraph (6) and inserting the  
6 following:

7 “(6) ADDITIONAL RULES FOR DETENTION OR  
8 RELEASE OF CERTAIN ALIENS.—

9 “(A) DETENTION REVIEW PROCESS FOR  
10 COOPERATIVE ALIENS ESTABLISHED.—For an  
11 alien who is not otherwise subject to mandatory  
12 detention, who has made all reasonable efforts  
13 to comply with a removal order and to cooper-  
14 ate fully with the Secretary of Homeland Secu-  
15 rity’s efforts to establish the alien’s identity and  
16 carry out the removal order, including making  
17 timely application in good faith for travel or  
18 other documents necessary to the alien’s depar-  
19 ture, and who has not conspired or acted to  
20 prevent removal, the Secretary shall establish  
21 an administrative review process to determine  
22 whether the alien should be detained or released  
23 on conditions. The Secretary shall make a de-  
24 termination whether to release an alien after  
25 the removal period in accordance with subpara-

1 graph (B). The determination shall include con-  
2 sideration of any evidence submitted by the  
3 alien, and may include consideration of any  
4 other evidence, including any information or as-  
5 sistance provided by the Secretary of State or  
6 other Federal official and any other information  
7 available to the Secretary of Homeland Security  
8 pertaining to the ability to remove the alien.

9 “(B) AUTHORITY TO DETAIN BEYOND RE-  
10 MOVAL PERIOD.—

11 “(i) IN GENERAL.—The Secretary of  
12 Homeland Security, in the exercise of the  
13 Secretary’s sole discretion, may continue to  
14 detain an alien for 90 days beyond the re-  
15 moval period (including any extension of  
16 the removal period as provided in para-  
17 graph (1)(C)). An alien whose detention is  
18 extended under this subparagraph shall  
19 have no right to seek release on bond.

20 “(ii) SPECIFIC CIRCUMSTANCES.—The  
21 Secretary of Homeland Security, in the ex-  
22 ercise of the Secretary’s sole discretion,  
23 may continue to detain an alien beyond the  
24 90 days authorized in clause (i)—

1           “(I) until the alien is removed, if  
2           the Secretary, in the Secretary’s sole  
3           discretion, determines that there is a  
4           significant likelihood that the alien—

5                   “(aa) will be removed in the  
6                   reasonably foreseeable future; or

7                   “(bb) would be removed in  
8                   the reasonably foreseeable future,  
9                   or would have been removed, but  
10                  for the alien’s failure or refusal  
11                  to make all reasonable efforts to  
12                  comply with the removal order,  
13                  or to cooperate fully with the  
14                  Secretary’s efforts to establish  
15                  the alien’s identity and carry out  
16                  the removal order, including  
17                  making timely application in  
18                  good faith for travel or other doc-  
19                  uments necessary to the alien’s  
20                  departure, or conspires or acts to  
21                  prevent removal;

22                  “(II) until the alien is removed,  
23                  if the Secretary of Homeland Security  
24                  certifies in writing—

1           “(aa) in consultation with  
2           the Secretary of Health and  
3           Human Services, that the alien  
4           has a highly contagious disease  
5           that poses a threat to public safe-  
6           ty;

7           “(bb) after receipt of a writ-  
8           ten recommendation from the  
9           Secretary of State, that release  
10          of the alien is likely to have seri-  
11          ous adverse foreign policy con-  
12          sequences for the United States;

13          “(cc) based on information  
14          available to the Secretary of  
15          Homeland Security (including  
16          classified, sensitive, or national  
17          security information, and without  
18          regard to the grounds upon  
19          which the alien was ordered re-  
20          moved), that there is reason to  
21          believe that the release of the  
22          alien would threaten the national  
23          security of the United States; or

24          “(dd) that the release of the  
25          alien will threaten the safety of

1 the community or any person,  
2 conditions of release cannot rea-  
3 sonably be expected to ensure the  
4 safety of the community or any  
5 person, and either (AA) the alien  
6 has been convicted of one or  
7 more aggravated felonies (as de-  
8 fined in section 101(a)(43)(A))  
9 or of one or more crimes identi-  
10 fied by the Secretary of Home-  
11 land Security by regulation, or of  
12 one or more attempts or conspir-  
13 acies to commit any such aggra-  
14 vated felonies or such identified  
15 crimes, if the aggregate term of  
16 imprisonment for such attempts  
17 or conspiracies is at least 5  
18 years; or (BB) the alien has com-  
19 mitted one or more crimes of vio-  
20 lence (as defined in section 16 of  
21 title 18, United States Code, but  
22 not including a purely political  
23 offense) and, because of a mental  
24 condition or personality disorder  
25 and behavior associated with that

1 condition or disorder, the alien is  
2 likely to engage in acts of vio-  
3 lence in the future; or

4 “(III) pending a certification  
5 under subclause (II), so long as the  
6 Secretary of Homeland Security has  
7 initiated the administrative review  
8 process not later than 30 days after  
9 the expiration of the removal period  
10 (including any extension of the re-  
11 moval period, as provided in para-  
12 graph (1)(C)).

13 “(iii) NO RIGHT TO BOND HEARING.—  
14 An alien whose detention is extended under  
15 this subparagraph shall have no right to  
16 seek release on bond, including by reason  
17 of a certification under clause (ii)(II).

18 “(C) RENEWAL AND DELEGATION OF CER-  
19 TIFICATION.—

20 “(i) RENEWAL.—The Secretary of  
21 Homeland Security may renew a certifi-  
22 cation under subparagraph (B)(ii)(II)  
23 every 6 months, after providing an oppor-  
24 tunity for the alien to request reconsider-  
25 ation of the certification and to submit

1 documents or other evidence in support of  
2 that request. If the Secretary does not  
3 renew a certification, the Secretary may  
4 not continue to detain the alien under sub-  
5 paragraph (B)(ii)(II).

6 “(ii) DELEGATION.—Notwithstanding  
7 section 103, the Secretary of Homeland  
8 Security may not delegate the authority to  
9 make or renew a certification described in  
10 item (bb), (cc), or (dd) of subparagraph  
11 (B)(ii)(II) below the level of the Director  
12 of Immigration and Customs Enforcement.

13 “(iii) HEARING.—The Secretary of  
14 Homeland Security may request that the  
15 Attorney General or the Attorney General’s  
16 designee provide for a hearing to make the  
17 determination described in item (dd)(BB)  
18 of subparagraph (B)(ii)(II).

19 “(D) RELEASE ON CONDITIONS.—If it is  
20 determined that an alien should be released  
21 from detention by a Federal court, the Board of  
22 Immigration Appeals, or if an immigration  
23 judge orders a stay of removal, the Secretary of  
24 Homeland Security, in the exercise of the Sec-

1           retary’s discretion, may impose conditions on  
2           release as provided in paragraph (3).

3           “(E) REDETENTION.—The Secretary of  
4           Homeland Security, in the exercise of the Sec-  
5           retary’s discretion, without any limitations  
6           other than those specified in this section, may  
7           again detain any alien subject to a final re-  
8           moval order who is released from custody, if re-  
9           moval becomes likely in the reasonably foresee-  
10          able future, the alien fails to comply with the  
11          conditions of release, or to continue to satisfy  
12          the conditions described in subparagraph (A),  
13          or if, upon reconsideration, the Secretary, in  
14          the Secretary’s sole discretion, determines that  
15          the alien can be detained under subparagraph  
16          (B). This section shall apply to any alien re-  
17          turned to custody pursuant to this subpara-  
18          graph, as if the removal period terminated on  
19          the day of the redetention.

20          “(F) REVIEW OF DETERMINATIONS BY  
21          SECRETARY.—A determination by the Secretary  
22          under this paragraph shall not be subject to re-  
23          view by any other agency.”.