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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To defer removal of certain nationals of Iraq for a 24-month period, and
for other purposes.

Mr. LEVIN of Michigan introduced the following bill; which was referred to
the Committee on _____

A BILL

To defer removal of certain nationals of Iraq for a 24-
month period, 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 “Deferred Removal for
5 Iraqi Nationals Including Minorities Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) There are over 1,000 Iraqi nationals living
2 in the United States who have been ordered re-
3 moved. Over the past three decades, Iraq has gen-
4 erally declined permission for repatriation of its na-
5 tionals, so that many Iraqis who were ordered re-
6 moved could not be repatriated. As a result, the re-
7 moval orders for many Iraqis are years or decades
8 old, and are not based on current country condi-
9 tions.

10 (2) Conditions in Iraq have worsened dramati-
11 cally since these removal orders were entered. Re-
12 moval orders entered years or decades ago do not re-
13 liably indicate whether an Iraqi is currently remov-
14 able based on current country conditions and cur-
15 rent law. Iraq's humanitarian, security, and refugee
16 crisis has resulted in extraordinary conditions that
17 today prevent many Iraqi nationals from safely re-
18 turning to Iraq. Many Iraqis with removal orders
19 will face persecution, torture, or death if removed.
20 They are therefore now eligible for immigration re-
21 lief that was unavailable when they were originally
22 ordered removed.

23 (3) The U.S. State Department currently warns
24 against any travel to Iraq due to "terrorism, kidnap-
25 ping, and armed conflict".

1 (4) The most recent State Department report
2 on human rights practices in Iraq warns of “unlaw-
3 ful or arbitrary killings by some members of the
4 Iraq Security Forces (in this Act referred to as
5 ‘ISF’), particularly Iran-aligned elements of the
6 Popular Mobilization Forces (in this Act referred to
7 as ‘PMF’); forced disappearances; torture; arbitrary
8 detention; harsh and life-threatening prison and de-
9 tention center conditions; arbitrary or unlawful in-
10 terference with privacy; restrictions on free expres-
11 sion, the press, and the internet, including censor-
12 ship, site blocking, and criminal libel; legal restric-
13 tions on freedom of movement of women; widespread
14 official corruption; unlawful recruitment or use of
15 child soldiers by Iran-aligned elements of the PMF
16 that operate outside government control; trafficking
17 in persons; criminalization of lesbian, gay, bisexual,
18 transgender, and intersex (in this Act referred to as
19 ‘LGBTI’) status or conduct; violence targeting
20 LGBTI persons; threats of violence against inter-
21 nally displaced persons (in this Act referred to as
22 ‘IDPs’) and returnee populations perceived to have
23 been affiliated with ISIS; and restrictions on worker
24 rights, including restrictions on formation of inde-
25 pendent unions and reports of child labor”.

1 (5) Iraqis who are removed to Iraq are also at
2 particular risk if they are perceived as American or
3 affiliated with the United States, which is the case
4 for the vast majority of Iraqis facing removal, since
5 most have lived in the United States for many years.
6 Iraqis who have family or employment ties in the
7 United States face heightened risks within Iraq on
8 the basis of their perceived loyalty to the United
9 States. For more than a decade, groups hostile to
10 the United States have persecuted and tortured ex-
11 tended family on account of a single family mem-
12 ber's affiliation with the United States through em-
13 ployment or family ties. In 2007, Congress specifi-
14 cally created a refugee program for Iraqis affiliated
15 with the United States because of the dangers facing
16 Iraqis who have allied themselves with the United
17 States.

18 (6) Noncitizens previously ordered removed
19 have a right to seek immigration relief based on cur-
20 rent country conditions.

21 (7) In the summer of 2017, U.S. Immigration
22 and Customs Enforcement sought to remove many
23 Iraqi nationals, eventually detaining over 300. As a
24 result of litigation, most of those detained Iraqis
25 were able to seek immigration relief based on cur-

1 rent country conditions. Once they were able to ac-
2 cess the immigration court system, a large majority
3 won motions to reopen their cases so that their eligi-
4 bility for relief can be determined based on current
5 country conditions. While most of the cases remain
6 in process, many of these Iraqis have won merits re-
7 lief, including withholding or deferral of removal
8 under the Immigration and Nationality Act or Con-
9 vention Against Torture, asylum, reinstatement of
10 their status as lawful permanent residents, and nat-
11 uralization.

12 (8) There are an estimated 1,000 Iraqis who
13 have not yet been able to seek immigration relief
14 based on current country conditions. Due to the
15 complexity of the required legal filings and the back-
16 logs in the immigration courts it can take several
17 years for an individual to seek to reopen their immi-
18 gration case and have their eligibility for immigra-
19 tion relief decided on the merits.

20 (9) Without sufficient time to seek immigration
21 relief based on current country conditions, Iraqis
22 could be removed to persecution, torture, or death
23 before they receive an individualized adjudication of
24 their eligibility for relief in light of current law and
25 current facts.

1 (10) Deferring removals 24 months would allow
2 Iraqis who have not yet done so time to seek immi-
3 gration relief based on changed country conditions.

4 **SEC. 3. SENSE OF CONGRESS.**

5 It is the sense of the Congress that—

6 (1) Iraqis should not be deported if they face
7 persecution, torture, or death;

8 (2) because of changing country conditions in
9 Iraq and the age of the Iraqis' removal orders, it
10 would be both unfair and dangerous to deport Iraqis
11 without ensuring that their cases will be individually
12 considered based on current country conditions; and

13 (3) the removal of Iraq nationals described in
14 section 4 should be deferred for a period of 24
15 months, at the end of which Congress should have
16 the opportunity to reevaluate country conditions in
17 Iraq.

18 **SEC. 4. DEFERRAL OF REMOVAL FOR NATIONALS OF IRAQ**

19 **WITH REMOVAL ORDERS.**

20 (a) DEFERRAL OF REMOVAL.—Except as provided in
21 subsection (b), an alien may not be removed for the 24-
22 month period beginning on the date of enactment of this
23 Act if the alien—

24 (1) is a national of Iraq;

1 (2) has been ordered removed to Iraq at any
2 time before the date of enactment of this Act; and

3 (3) resided in the United States on or before
4 January 1, 2014.

5 (b) DEFERRAL NOT APPLICABLE TO CERTAIN
6 ALIENS.—Subsection (a) shall not apply to an alien if—

7 (1) the Secretary of Homeland Security deter-
8 mines that the alien’s removal is necessary based
9 upon credible facts that the alien is directly respon-
10 sible for specific and significant harm to the security
11 of the United States;

12 (2) the alien voluntarily returns to Iraq; or

13 (3) the alien is subject to extradition.

14 (c) EMPLOYMENT AUTHORIZATION.—Upon applica-
15 tion to the Secretary of Homeland Security, an alien
16 whose removal is deferred pursuant to this Act—

17 (1) shall be authorized to engage in employ-
18 ment during the 24-month period described in sub-
19 section (a); and

20 (2) shall be issued an employment authorization
21 document that remains valid during such period.

22 (d) IMPLEMENTATION.—The Secretary of Homeland
23 Security shall take the necessary steps to implement—

24 (1) the deferral of removal authorized under
25 this section; and

1 (2) the authorization of employment described
2 in subsection (c).

3 **SEC. 5. NOTICE FOR CERTAIN ALIENS WITH REMOVAL OR-**
4 **DERS TO IRAQ.**

5 (a) IN GENERAL.—Not later than 60 days after the
6 date of enactment of this Act, the Secretary of Homeland
7 Security shall provide notice of the provisions of this Act
8 to each alien who—

9 (1) is a national of Iraq; and

10 (2) has a final order of removal.

11 (b) CONTENTS OF NOTICE.—The notice required
12 under subsection (a) shall include clear instructions ex-
13 plaining the requirements for an alien to file a motion to
14 reopen a proceeding under section 240 of the Immigration
15 and Nationality Act (8 U.S.C. 1229a) based on changed
16 country conditions.

17 **SEC. 6. PROHIBITION ON DETENTION.**

18 The Secretary of Homeland Security may not detain
19 an alien whose removal is deferred pursuant to this Act
20 on the basis of the alien's immigration status in the
21 United States or as a result of a motion filed by the alien
22 to reopen a proceeding under section 240 of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1229a).

1 **SEC. 7. JUDICIAL REVIEW.**

2 (a) REVIEW.—Notwithstanding any other provision
3 of law, an individual or entity who has been harmed by
4 a violation of this Act may file an action in an appropriate
5 district court of the United States to seek declaratory or
6 injunctive relief.

7 (b) RULE OF CONSTRUCTION.—Nothing in this Act
8 may be construed to preclude an action filed pursuant to
9 subsection (a) from proceeding as a class action (as such
10 term is defined in section 1711 of title 28, United States
11 Code).