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.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Deferred Removal for
Iraqi Nationals Including Minorities Act of 2019”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) There are over 1,000 Iraqi nationals living in the United States who have been ordered removed. Over the past three decades, Iraq has generally declined permission for repatriation of its nationals, so that many Iraqis who were ordered removed could not be repatriated. As a result, the removal orders for many Iraqis are years or decades old, and are not based on current country conditions.

(2) Conditions in Iraq have worsened dramatically since these removal orders were entered. Removal orders entered years or decades ago do not reliably indicate whether an Iraqi is currently removable based on current country conditions and current law. Iraq’s humanitarian, security, and refugee crisis has resulted in extraordinary conditions that today prevent many Iraqi nationals from safely returning to Iraq. Many Iraqis with removal orders will face persecution, torture, or death if removed. They are therefore now eligible for immigration relief that was unavailable when they were originally ordered removed.

(3) The U.S. State Department currently warns against any travel to Iraq due to “terrorism, kidnapping, and armed conflict”.
(4) The most recent State Department report on human rights practices in Iraq warns of “unlawful or arbitrary killings by some members of the Iraq Security Forces (in this Act referred to as ‘ISF’), particularly Iran-aligned elements of the Popular Mobilization Forces (in this Act referred to as ‘PMF’); forced disappearances; torture; arbitrary detention; harsh and life-threatening prison and detention center conditions; arbitrary or unlawful interference with privacy; restrictions on free expression, the press, and the internet, including censorship, site blocking, and criminal libel; legal restrictions on freedom of movement of women; widespread official corruption; unlawful recruitment or use of child soldiers by Iran-aligned elements of the PMF that operate outside government control; trafficking in persons; criminalization of lesbian, gay, bisexual, transgender, and intersex (in this Act referred to as ‘LGBTI’) status or conduct; violence targeting LGBTI persons; threats of violence against internally displaced persons (in this Act referred to as ‘IDPs’) and returnee populations perceived to have been affiliated with ISIS; and restrictions on worker rights, including restrictions on formation of independent unions and reports of child labor”.
(5) Iraqis who are removed to Iraq are also at particular risk if they are perceived as American or affiliated with the United States, which is the case for the vast majority of Iraqis facing removal, since most have lived in the United States for many years. Iraqis who have family or employment ties in the United States face heightened risks within Iraq on the basis of their perceived loyalty to the United States. For more than a decade, groups hostile to the United States have persecuted and tortured extended family on account of a single family member’s affiliation with the United States through employment or family ties. In 2007, Congress specifically created a refugee program for Iraqis affiliated with the United States because of the dangers facing Iraqis who have allied themselves with the United States.

(6) Noncitizens previously ordered removed have a right to seek immigration relief based on current country conditions.

(7) In the summer of 2017, U.S. Immigration and Customs Enforcement sought to remove many Iraqi nationals, eventually detaining over 300. As a result of litigation, most of those detained Iraqis were able to seek immigration relief based on cur-
rent country conditions. Once they were able to access the immigration court system, a large majority won motions to reopen their cases so that their eligibility for relief can be determined based on current country conditions. While most of the cases remain in process, many of these Iraqis have won merits relief, including withholding or deferral of removal under the Immigration and Nationality Act or Convention Against Torture, asylum, reinstatement of their status as lawful permanent residents, and naturalization.

(8) There are an estimated 1,000 Iraqis who have not yet been able to seek immigration relief based on current country conditions. Due to the complexity of the required legal filings and the backlogs in the immigration courts it can take several years for an individual to seek to reopen their immigration case and have their eligibility for immigration relief decided on the merits.

(9) Without sufficient time to seek immigration relief based on current country conditions, Iraqis could be removed to persecution, torture, or death before they receive an individualized adjudication of their eligibility for relief in light of current law and current facts.
(10) Deferring removals 24 months would allow Iraqis who have not yet done so time to seek immigration relief based on changed country conditions.

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that—

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

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

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

SEC. 4. DEFERRAL OF REMOVAL FOR NATIONALS OF IRAQ WITH REMOVAL ORDERS.

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

(1) is a national of Iraq;
(2) has been ordered removed to Iraq at any time before the date of enactment of this Act; and
(3) resided in the United States on or before January 1, 2014.

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

(1) the Secretary of Homeland Security determines that the alien’s removal is necessary based upon credible facts that the alien is directly responsible for specific and significant harm to the security of the United States;
(2) the alien voluntarily returns to Iraq; or
(3) the alien is subject to extradition.

(e) EMPLOYMENT AUTHORIZATION.—Upon application to the Secretary of Homeland Security, an alien whose removal is deferred pursuant to this Act—

(1) shall be authorized to engage in employment during the 24-month period described in subsection (a); and
(2) shall be issued an employment authorization document that remains valid during such period.

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

(1) the deferral of removal authorized under this section; and
(2) the authorization of employment described in subsection (e).

SEC. 5. NOTICE FOR CERTAIN ALIENS WITH REMOVAL ORDERS TO IRAQ.

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

(1) is a national of Iraq; and

(2) has a final order of removal.

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

SEC. 6. PROHIBITION ON DETENTION.

The Secretary of Homeland Security may not detain an alien whose removal is deferred pursuant to this Act on the basis of the alien’s immigration status in the United States or as a result of a motion filed by the alien to reopen a proceeding under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).
SEC. 7. JUDICIAL REVIEW.

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

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