

119TH CONGRESS
2D SESSION

S. _____

To amend the Child Care and Development Block Grant Act of 1990 to debar child care providers who commit fraud from receiving certain financial assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend the Child Care and Development Block Grant Act of 1990 to debar child care providers who commit fraud from receiving certain financial assistance, 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 “Stop Fraud by
5 Strengthening Oversight and More Accountability for
6 Lying and Illegal Activity Act” or the “Stop Fraud by
7 SOMALIA Act”.

1 **SEC. 2. NONCOMPLIANCE DUE TO FRAUD.**

2 Section 658I(b) of the Child Care and Development
3 Block Grant Act of 1990 (42 U.S.C. 9858g(b)) is amend-
4 ed—

5 (1) by redesignating paragraph (3) as para-
6 graph (4); and

7 (2) by inserting after paragraph (2) the fol-
8 lowing:

9 “(3) NONCOMPLIANCE DUE TO FRAUD.—

10 “(A) DEFINITION.—In this paragraph, the
11 term ‘final determination of fraud’ means a ju-
12 dicial decision or administrative order, for
13 which all rights to appeal have been exhausted
14 or waived, that determines that a child care
15 provider—

16 “(i) knowingly submitted a false state-
17 ment or documentation to obtain funds ap-
18 propriated under any authority and avail-
19 able under this subchapter;

20 “(ii) misrepresented ownership of, en-
21 rollment at, attendance at, or services pro-
22 vided through a program of child care
23 services, or the eligibility of the provider to
24 provide such a program, to obtain such
25 funds;

1 “(iii) to obtain such funds, operated
2 without State licensing that is required
3 under section 658E(c)(2)(F);

4 “(iv) made a knowing and improper
5 expenditure of such funds; or

6 “(v) engaged in any other conduct re-
7 lated to such funds that constituted fraud
8 under Federal or State law.

9 “(B) REIMBURSEMENT.—If the Secretary
10 finds that there has been a final determination
11 of fraud by a child care provider that received
12 funds described in subparagraph (A)(i) from a
13 State, the Secretary shall notify the State of
14 the finding and shall require that the State re-
15 imburse the Secretary for the financial assist-
16 ance that was the subject of the determination
17 of fraud (referred to in this paragraph as ‘fi-
18 nancial assistance obtained through fraud’),
19 that the Secretary deduct from the administra-
20 tive portion of the State allotment for the fol-
21 lowing fiscal year an amount that is less than
22 or equal to the financial assistance obtained
23 through fraud, or a combination of such op-
24 tions.

1 “(C) ADDITIONAL SANCTIONS.—If the Sec-
2 retary makes a finding described in subpara-
3 graph (B), the Secretary may, in addition to
4 imposing the sanctions described in such sub-
5 paragraph, impose other appropriate sanctions,
6 including recoupment of money improperly ex-
7 pended for purposes prohibited or not author-
8 ized by this subchapter, and disqualification
9 from the receipt of financial assistance under
10 this subchapter.

11 “(D) MANDATORY PERMANENT DEBAR-
12 MENT.—

13 “(i) DEBARMENT.—If the Secretary
14 makes a finding described in subparagraph
15 (B), the Secretary shall permanently debar
16 the provider from participating in, or re-
17 ceiving financial assistance under, any
18 Federal child care assistance program
19 funded in whole or in part by the Depart-
20 ment of Health and Human Services.

21 “(ii) NO REINSTATEMENT.—No per-
22 son may waive, reverse, or reduce the pe-
23 riod or scope of a debarment made under
24 clause (i). No child care provider, subject
25 to such a debarment, may regain eligibility

1 to participate in or receive financial assist-
2 ance under a program described in clause
3 (i) by changing the name of the provider
4 or the program offered by the provider, by
5 reorganizing, by merging with another en-
6 tity, or by repaying the financial assistance
7 that is the subject of the final determina-
8 tion of fraud.

9 “(iii) STATE COMPLIANCE.—A State
10 that receives funds described in subpara-
11 graph (A)(i) shall deny such participation,
12 and such financial assistance, to any child
13 care provider debarred under clause (i).

14 “(E) MANDATORY REFERRAL FOR FED-
15 ERAL CRIMINAL INVESTIGATION AND PROSECU-
16 TION.—If a debarment made under subpara-
17 graph (D) is based on an administrative order,
18 the Secretary shall refer the matter, including
19 the administrative record containing the final
20 determination of fraud, the order, and any sup-
21 porting documentation, to the Attorney General
22 to initiate a Federal criminal investigation and,
23 if warranted, prosecution for fraud under chap-
24 ter 47 of title 18, United States Code.”.

1 **SEC. 3. INADMISSIBILITY FOR ALIEN CHILD CARE PRO-**
2 **VIDERS WHO COMMIT FRAUD.**

3 Section 212(a)(2) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(a)(2)) is amended—

5 (1) by redesignating subparagraph (F) as sub-
6 paragraph (J), and moving the redesignated sub-
7 paragraph so it appears after subparagraph (I); and

8 (2) by inserting after subparagraph (E) the fol-
9 lowing:

10 “(F) FRAUD.—Any alien child care pro-
11 vider who has been permanently debarred as a
12 child care provider, based on a final determina-
13 tion of fraud, under section 658I(b)(3)(D) of
14 the Child Care and Development Block Grant
15 Act of 1990 (42 U.S.C. 9858g(b)(3)(D)).”.

16 **SEC. 4. INADMISSIBILITY FOR ALIEN CHILD CARE PRO-**
17 **VIDERS WHO PROVIDE SUPPORT TO TERROR-**
18 **ISTS.**

19 Section 212(a)(3)(B)(i) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

21 (1) in subclause (VIII), by striking “or” at the
22 end;

23 (2) by redesignating subclause (IX) as sub-
24 clause (XI);

25 (3) by inserting after subclause (VIII) the fol-
26 lowing:

1 “(IX)(aa) has been permanently
2 debarred as a child care provider,
3 based on a final determination of
4 fraud, under section 658I(b)(3)(D) of
5 the Child Care and Development
6 Block Grant Act of 1990 (42 U.S.C.
7 9858g(b)(3)(D)); and

8 “(bb) the Attorney General, the
9 Secretary of State, or the Secretary of
10 Homeland Security has determined
11 has received funds as a child care pro-
12 vider that were used to support any
13 terrorist organization, including Al-
14 Shabaab, or any individual engaged in
15 terrorist activity;

16 “(X) is an officer, official, rep-
17 resentative, spokesperson, or member
18 of, or is in any way associated with—

19 “(aa) the Palestine Libera-
20 tion Organization; or

21 “(bb) al-Shabaab (including
22 any other alias for al-Shabaab);
23 or”; and

24 (4) by striking the undesignated matter at the
25 end.

1 **SEC. 5. REMOVABILITY, AND INELIGIBILITY FOR ASYLUM**
2 **AND ADJUSTMENT OF STATUS, FOR ALIEN**
3 **CHILD CARE PROVIDERS WHO COMMIT**
4 **FRAUD.**

5 (a) DEPORTABILITY.—Section 237(a)(2)(A) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1227(a)(2)(A)) is amended—

8 (1) by redesignating clause (vi) as clause (vii);

9 (2) by inserting after clause (v) the following:

10 “(vi) Any alien who has been perma-
11 nently debarred as a child care provider,
12 based on a final determination of fraud,
13 under section 658I(b)(3)(D) of the Child
14 Care and Development Block Grant Act of
15 1990 (42 U.S.C. 9858g(b)(3)(D)), is de-
16 portable.”; and

17 (3) in clause (vii), as redesignated, by striking
18 “and (iv)” and inserting “(iv), and (vi)”.

19 (b) INELIGIBILITY FOR ASYLUM.—

20 (1) IN GENERAL.—Section 208 of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1158), is amend-
22 ed—

23 (A) in subsection (a)(2)—

24 (i) by redesignating subparagraph (E)
25 as subparagraph (F); and

1 (ii) by inserting after subparagraph
2 (D) the following:

3 “(E) Paragraph (1) shall not apply to an
4 alien who has been permanently debarred as a
5 child care provider, based on a final determina-
6 tion of fraud, under section 658I(b)(3)(D) of
7 the Child Care and Development Block Grant
8 Act of 1990 (42 U.S.C. 9858g(b)(3)(D)).”; and

9 (B) in subsection (b)(2)(A)—

10 (i) in clause (v), by striking “or” at
11 the end;

12 (ii) by redesignating clause (vi) as
13 clause (vii); and

14 (iii) by inserting after clause (v) the
15 following:

16 “(vi) the alien has been permanently
17 debarred as a child care provider, based on
18 a final determination of fraud, under sec-
19 tion 658I(b)(3)(D) of the Child Care and
20 Development Block Grant Act of 1990 (42
21 U.S.C. 9858g(b)(3)(D)).”.

22 (2) CONFORMING AMENDMENT.—Section 316
23 of the Immigration and Nationality Act (8 U.S.C.
24 1427(f)(1)) is amended, in the second proviso, by

1 striking “clauses (i) through (v)” and inserting
2 “clauses (i) through (vi)”.

3 (c) INELIGIBILITY FOR ADJUSTMENT OF STATUS.—
4 Section 245(c) of the Immigration and Nationality Act (8
5 U.S.C. 1255(c)), is amended—

6 (1) in paragraph (7), by striking “; or” and in-
7 serting a semicolon; and

8 (2) by striking the period at the end and insert-
9 ing “; or (9) any alien who has been permanently
10 debarred as a child care provider, based on a final
11 determination of fraud, under section 658I(b)(3)(D)
12 of the Child Care and Development Block Grant Act
13 of 1990 (42 U.S.C. 9858g(b)(3)(D)).”.

14 (d) EXCLUSION FROM FINDING OF GOOD MORAL
15 CHARACTER.—Section 101(f) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1101(f)) is amended by inserting
17 after paragraph (1) the following:

18 “(2) a person who has been permanently
19 debarred as a child care provider, based on a final
20 determination of fraud, under section 658I(b)(3)(D)
21 of the Child Care and Development Block Grant Act
22 of 1990 (42 U.S.C. 9858g(b)(3)(D));”.

1 **SEC. 6. MANDATORY DETENTION AND EXPEDITED RE-**
2 **MOVAL.**

3 (a) EXPEDITED REMOVAL OF INADMISSIBLE ALIEN
4 CHILD CARE PROVIDERS.—Section 235 of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1225), is amended—

6 (1) by redesignating subsection (d) as sub-
7 section (e); and

8 (2) by inserting after subsection (c) the fol-
9 lowing:

10 “(d) REMOVAL OF ALIENS INADMISSIBLE DUE TO
11 CHILD CARE PROVIDER FRAUD.—

12 “(1) REMOVAL WITHOUT FURTHER HEARING.—

13 If an immigration officer or an immigration judge
14 suspects that an arriving alien or an applicant for
15 admission may be inadmissible under section
16 212(a)(2)(F), the officer or judge shall—

17 “(A) order the alien removed, subject to
18 review under paragraph (2);

19 “(B) report the order of removal to the
20 Secretary of State, the Attorney General, or a
21 designee of the Secretary or Attorney General;
22 and

23 “(C) refrain from conducting any further
24 inquiry or hearing with respect to such alien
25 until ordered to do so by the Secretary, the At-
26 torney General, or a designated senior official.

1 “(2) REVIEW OF ORDER.—

2 “(A) IN GENERAL.—The Secretary of
3 Homeland Security, the Attorney General, or a
4 designee of the Secretary or Attorney General
5 shall review each order issued pursuant to para-
6 graph (1)(A).

7 “(B) EXPEDITED REMOVAL.—If the Sec-
8 retary, the Attorney General, or a designee de-
9 termines that the alien who is the subject of
10 such order is inadmissible under section
11 212(a)(2)(F), the Secretary or the Attorney
12 General may order the alien removed without
13 further inquiry or hearing.

14 “(C) FURTHER INQUIRY.—If the Secretary
15 or the Attorney General does not order the re-
16 moval of the alien pursuant to subparagraph
17 (B), the Secretary, the Attorney General, or a
18 designee may determine the scope of further ad-
19 ministrative inquiry or hearing that may be
20 conducted with respect to such alien.

21 “(3) SUBMISSION OF STATEMENT AND INFOR-
22 MATION.—Each alien who is the subject of a re-
23 moval order under this subsection, or the alien’s rep-
24 resentative, may submit a written statement and ad-
25 ditional information for consideration by the Sec-

1 retary of Homeland Security, the Attorney General,
2 or a designee of the Secretary or the Attorney Gen-
3 eral.”.

4 (b) MANDATORY DETENTION FOR CONVICTED ALIEN
5 CHILD-CARE PROVIDERS.—Section 236(c)(1)(B) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1226(c)(1)(B)), is amended by striking “offense covered
8 in section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D),” and
9 inserting “described in subparagraph (A)(ii), (A)(iii),
10 (A)(vi), (B), (C), or (D) of section 237(a)(2);”.

11 (c) EXPEDITED REMOVAL FOR INCARCERATED
12 ALIEN CHILD-CARE PROVIDERS.—Section 238 of the Im-
13 migration and Nationality Act (8 U.S.C. 1228) is amend-
14 ed—

15 (1) in subsection (a)—

16 (A) in paragraph (1), by striking “any
17 criminal offense covered in section
18 241(a)(2)(A)(iii), (B), (C), or (D), or any of-
19 fense covered by section 241(a)(2)(A)(ii) for
20 which both predicate offenses are, without re-
21 gard to the date of their commission, otherwise
22 covered by section 241(a)(2)(A)(i)” and insert-
23 ing “any criminal offense described in subpara-
24 graph (A)(iii), (A)(vi), (B), (C), or (D) of sec-
25 tion 237, or any offense described in section

1 237(a)(2)(A)(ii) for which both predicate of-
2 fenses are, without regard to the date of their
3 commission, otherwise described in section
4 237(a)(2)(A)(i)”; and

5 (B) in paragraph (2), by inserting “, or an
6 alien who has been permanently debarred as a
7 child care provider, based on a final determina-
8 tion of fraud, under section 658I(b)(3)(B) of
9 the Child Care and Development Block Grant
10 Act of 1990 (42 U.S.C. 9858g(b)(3)(B)),” after
11 “aggravated felony”;

12 (2) in subsection (b), by inserting “or under
13 section 237(a)(2)(A)(vi) (relating to a conviction for
14 child-care provider fraud)” after “aggravated fel-
15 ony)”;

16 (3) by redesignating the second subsection (c)
17 (previously so designated by section 671(b)(13) of
18 the Illegal Immigration Reform and Immigrant Re-
19 sponsibility Act of 1996 (division C of Public Law
20 104-208)) as subsection (d).

21 **SEC. 7. EXEMPTION FROM PAPERWORK REDUCTION ACT**
22 **AND THE ADMINISTRATIVE PROCEDURE ACT.**

23 (a) PAPERWORK REDUCTION ACT.—Nothing in this
24 Act may be construed to require the Secretary of Health
25 and Human Services, Secretary of Homeland Security, or

1 Attorney General to comply with the requirements of
2 chapter 35 of title 44, United States Code (commonly re-
3 ferred to as the “Paperwork Reduction Act”) to imple-
4 ment the provisions of sections 3 through 6 of this Act,
5 if the Secretary of Health and Human Services, Secretary
6 of Homeland Security, or Attorney General, respectively,
7 determines that compliance would impede the immediate
8 implementation of this Act or the amendments made by
9 this Act.

10 (b) ADMINISTRATIVE PROCEDURE ACT.—Nothing in
11 this Act may be construed to require the Secretary of
12 Health and Human Services, Secretary of Homeland Se-
13 curity, or Attorney General to promulgate regulations
14 under subchapter II of chapter 5 of title 5, United States
15 Code (commonly referred to as the “Administrative Proce-
16 dure Act”), if the Secretary of Health and Human Serv-
17 ices, Secretary of Homeland Security, or Attorney Gen-
18 eral, respectively, determines that promulgation would im-
19 pede the immediate implementation of this Act or the
20 amendments made by this Act.

21 **SEC. 8. CONSTRUCTION; SEVERABILITY.**

22 Any provision of this Act or an amendment made by
23 this Act held to be invalid or unenforceable by its terms,
24 or as applied to any person or circumstance, shall be con-
25 strued so as to give it the maximum effect permitted by

1 law, unless such holding shall be utterly invalid or unen-
2 forceable, in which event such provision shall be deemed
3 severable from this Act or the Act amended, respectively
4 and shall not affect the remainder of this Act or the Act
5 amended, respectively, or the application of such provision
6 to other persons not similarly situated or to other, dis-
7 similar circumstances.

8 **SEC. 9. EFFECTIVE DATE; APPLICABILITY.**

9 (a) IN GENERAL.—Except as provided in subsection
10 (b), this Act and the amendments made by this Act shall
11 take effect on the date of enactment of this Act.

12 (b) APPLICABILITY.—The amendments made by sec-
13 tions 3 through 6 of this Act shall apply to any conduct
14 by an alien that constituted fraud and was committed on
15 or after September 30, 1996, against any private indi-
16 vidual, fund, corporation, or government entity, for which
17 the alien has not yet been arrested, charged, or indicted
18 as of the date of the enactment of this Act.