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13-21

AMENDMENT TO H.R. 1932
OFFERED BY MS. JACKSON LEE OF TEXAS

Beginning on page 5, line 9, strike through page 12,
line 24, and insert the following:

1 “(6) ADDITIONAL RULES FOR DETENTION OR
2 RELEASE OF CERTAIN ALIENS.—

3 “(A) AUTHORITY TO DETAIN BEYOND RE-
4 MOVAL PERIOD.—

5 “(i) ADDITIONAL 90 DAYS.—The Sec-
6 retary of Homeland Security, in the exer-
7 cise of the Secretary’s discretion, may con-
8 tinue to detain an alien for 90 days beyond
9 the removal period (including any exten-
10 sion of the removal period as provided in
11 paragraph (1)(C)).

12 “(ii) FURTHER EXTENSIONS.—The
13 Secretary of Homeland Security, in the ex-
14 ercise of the Secretary’s discretion, may
15 continue to detain an alien beyond the 90
16 days authorized in clause (i) until the alien
17 is removed if—

18 “(I) the Secretary determines
19 that there is a significant likelihood

1 “(aa) the alien has served
2 more than 5 years of imprison-
3 ment for those convictions;

4 “(bb) the Secretary deter-
5 mines that the release of the
6 alien will threaten the safety of
7 the community or any person;
8 and

9 “(cc) the Secretary is seek-
10 ing to commit the alien under
11 subparagraph (B).

12 “(B) COMMITMENT OF DANGEROUS
13 ALIENS.—

14 “(i) IN GENERAL.—The Secretary of
15 Homeland Security may seek the commit-
16 ment under this subparagraph of an alien
17 who poses a special danger to others. For
18 purposes of this subparagraph, the term
19 ‘alien who poses a special danger to others’
20 shall mean an alien who—

21 “(I) has been convicted of a
22 crime of violence (as defined in section
23 16 of title 18, United States Code,
24 but not including a purely political of-
25 fense) other than a misdemeanor;

1 alien is an alien who poses a special
2 danger to others; and

3 “(III) the alien’s release shall be
4 stayed and the alien may not be re-
5 leased until the court makes a deter-
6 mination after the hearing ordered
7 under subclause (II).

8 “(iii) PROCEEDINGS.—

9 “(I) The alien shall be rep-
10 resented by counsel and, if the alien is
11 financially unable to obtain adequate
12 representation, counsel shall be ap-
13 pointed for the alien pursuant to sec-
14 tion 3006A of title 18, United States
15 Code.

16 “(II) The alien shall be afforded
17 an opportunity to testify, to present
18 evidence, to subpoena witnesses, and
19 to confront and cross-examine wit-
20 nesses who appear at the hearing.

21 “(iv) PSYCHIATRIC OR PSYCHO-
22 LOGICAL EXAMINATIONS.—

23 “(I) Prior to the date of the
24 hearing, the court may order that a
25 psychiatric or psychological examina-

1 good cause that the additional time is
2 necessary to observe and evaluate the
3 individual.

4 “(IV) Unless impracticable, the
5 psychiatric or psychological examina-
6 tion shall be conducted in the suitable
7 facility closest to the court.

8 “(V) A psychiatric or psycho-
9 logical report ordered pursuant to this
10 section shall include—

11 “(aa) the alien’s history and
12 present symptoms;

13 “(bb) a description of the
14 psychiatric, psychological, and
15 medical tests that were employed
16 and their results;

17 “(cc) the examiner’s find-
18 ings; and

19 “(dd) the examiner’s opin-
20 ions as to diagnosis, prognosis,
21 and whether the alien is pres-
22 ently suffering from a mental ill-
23 ness or disorder and, as a result
24 of such mental illness or dis-
25 order, would have substantial dif-

1 the alien for treatment in a suitable facility
2 with the least restrictions necessary, until
3 the earlier of—

4 “(I) the date that such a State
5 will assume such responsibility; or

6 “(II) the date that the alien’s
7 condition is such that the alien would
8 not have substantial difficulty refrain-
9 ing from future acts of serious vio-
10 lence against others if released under
11 a prescribed regimen of medical, psy-
12 chiatric, or psychological care or
13 treatment.

14 “(vi) PERIODIC REPORT.—The direc-
15 tor of a facility in which an alien is com-
16 mitted shall prepare reports every six
17 months concerning the mental condition of
18 the alien and the need for continued com-
19 mitment. The reports shall be submitted to
20 the court that ordered the alien’s commit-
21 ment, and copies of the reports shall be
22 submitted to such other persons as the
23 court may direct.

24 “(vii) INFORMATION REQUIRE-
25 MENTS.—The director of a facility in

1 psychiatric, or psychological care
2 or treatment; or

3 “(bb) the alien’s counsel or
4 legal guardian files with the
5 court a motion for a hearing to
6 determine whether the alien
7 should be discharged from such
8 facility, except that no such mo-
9 tion may be filed within 180 days
10 after a court determination that
11 the alien should continue to be
12 committed.

13 “(II) The court may order the
14 alien’s discharge if, after the hearing,
15 the court finds by a preponderance of
16 the evidence that the alien’s condition
17 is such that the alien, if released,
18 would not have substantial difficulty
19 refraining from future acts of serious
20 violence against others. If the court
21 finds that the alien would not have
22 substantial difficulty refraining from
23 future acts of serious violence against
24 others if the alien were released under
25 a prescribed regimen of medical, psy-

1 “(x) REVOCATION OF CONDITIONAL
2 DISCHARGE.—The director of a facility re-
3 sponsible for administering a regimen im-
4 posed on an alien conditionally discharged
5 under clause (ix) shall notify the Attorney
6 General and the court having jurisdiction
7 over the alien of any failure to comply with
8 the regimen of medical, psychiatric, or psy-
9 chological care or treatment prescribed in
10 such clause. Upon such notice, or upon
11 other probable cause to believe that the
12 alien has failed to comply with the pre-
13 scribed regimen, the alien may be detained
14 and taken without unnecessary delay be-
15 fore the court. The court shall, after a
16 hearing, determine whether the alien
17 should be remanded to a suitable facility
18 on the ground that the alien’s release
19 would pose a special danger to others due
20 to the alien’s failure to comply with the
21 prescribed regimen.

22 “(xi) AUTHORITY AND RESPONSI-
23 BILITY OF THE ATTORNEY GENERAL.—The
24 Attorney General—

1 cilities used in the implementation of
2 this subparagraph.”.

