

Failed voice vote
Amendment #1

AMENDMENT TO H.R. 1148
OFFERED BY MR. KING OF IOWA

At the end of the bill, add the following (and amend the table of contents accordingly):

1 **SEC. 610. RIGHT OF PRIVATE ACTION TO REMOVE DEPORT-**
2 **ABLE ALIENS.**

3 (a) ACTIONS BY INDIVIDUALS.—

4 (1) IN GENERAL.—An individual with United
5 States citizenship or a lawful status under the immi-
6 gration laws of the United States, as defined in sec-
7 tion 101(a)(17) of the Immigration and Nationality
8 Act, may bring a civil action in a United States dis-
9 trict court on behalf of the individual and the United
10 States Government in the name of the United States
11 seeking removal of an alien from the United States,
12 and the court shall order such removal if the plain-
13 tiff shows by clear and convincing evidence that—

14 (A) the alien is deportable under section
15 237(a) of the Immigration and Nationality Act
16 (8 U.S.C. 1227(a));

17 (B) the individual suffered harm to person
18 or property that was caused by the alien;

1 (C) the harm described in subparagraph
2 (B) resulted in a final judgment, as defined in
3 subsection (d), against the alien; and

4 (D) the action is initiated not later than 2
5 years after the final judgment.

6 (2) INDIVIDUAL UNABLE TO BRING AN AC-
7 TION.—If the individual who suffered the harm de-
8 scribed in paragraph (1)(B) is dead, incapacitated,
9 or incompetent, the parent, sibling, child, or guard-
10 ian of the individual may bring an action on behalf
11 of the individual under paragraph (1).

12 (b) GOVERNMENT RESPONSE.—

13 (1) NOTICE TO THE GOVERNMENT.—Not later
14 than 10 days after initiating a civil action under
15 subsection (a), the plaintiff shall serve on the Attor-
16 ney General and the Secretary of Homeland Security
17 a copy of the complaint and a written disclosure de-
18 scribing substantially all material evidence and infor-
19 mation the plaintiff possesses pertaining to the com-
20 plaint.

21 (2) GOVERNMENT ELECTION.—Not later than
22 30 days after receiving the complaint and written
23 disclosure under paragraph (1), the Attorney Gen-
24 eral and the Secretary of Homeland Security shall—

1 (A) elect to proceed with the action, in
2 which case the action shall be conducted by the
3 Attorney General or the Secretary of Homeland
4 Security, whichever first notifies the court of
5 the intent to proceed with the action; or

6 (B) notify the court of the intent to decline
7 to take over the action, in which case the plain-
8 tiff bringing the action shall have the right to
9 conduct the action.

10 (3) PRIMARY RESPONSIBILITY.—In an action
11 under paragraph (2)(A), the Attorney General or the
12 Secretary of Homeland Security, as applicable, shall
13 have the primary responsibility for conducting the
14 action and shall not be bound by any act of the
15 plaintiff bringing the action. The plaintiff bringing
16 the action shall have the right to continue as a party
17 to the action.

18 (4) NO GOVERNMENT DISMISSAL.—In an action
19 under paragraph (2), the Attorney General or the
20 Secretary of Homeland Security, as applicable, may
21 not move to dismiss the action.

22 (c) GOVERNMENT LIABILITY FOR EXPENSES.—

23 (1) NO LIABILITY FOR EXPENSES OF PLAIN-
24 TIF.—The United States is not liable for expenses

1 that a private plaintiff incurs in conducting an ac-
2 tion under this section.

3 (2) ATTORNEY FEES OF DEFENDANT.—If nei-
4 ther the Attorney General nor the Secretary of
5 Homeland Security elects to proceed with the action,
6 the court may award to the defendant reasonable at-
7 torneys' fees and expenses if the defendant prevails
8 in the action. If the Attorney General or the Sec-
9 retary of Homeland Security elects to proceed with
10 the action, the provisions of section 2412(d) of title
11 28, United States Code, shall apply.

12 (d) DEFINITION OF FINAL JUDGMENT.—In this Act,
13 the term “final judgment” means a final decision on the
14 merits in State or Federal court that cannot be appealed
15 because of—

16 (1) the expiration of the time permitted for ap-
17 peal;

18 (2) valid waivers of the right to appeal filed by
19 the parties; or

20 (3) a final dismissal of all possible appeals.

21 (e) NO RESTRICTIONS ON PRIVATE RIGHT OF AC-
22 TION TO ENFORCE REMOVAL ORDERS.—Section
23 241(a)(4) of the Immigration and Nationality Act (8

1 U.S.C. 1231(a)(4) is amended by striking subparagraph
2 (D).

