

108TH CONGRESS
1ST SESSION

S. 922

To change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2003

Mr. REID (for himself, Mr. KENNEDY, Mr. DURBIN, Mr. BROWNBACK, Mr. COLEMAN, Mr. MCCAIN, Mr. SCHUMER, Mrs. BOXER, Mr. LEAHY, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Naturalization and
3 Family Protection for Military Members Act of 2003”.

4 **SEC. 2. REQUIREMENTS FOR NATURALIZATION THROUGH**
5 **SERVICE IN THE ARMED FORCES OF THE**
6 **UNITED STATES.**

7 (a) REDUCTION OF PERIOD FOR REQUIRED SERV-
8 ICE.—Section 328(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1439(a)) is amended by striking “three
10 years” and inserting “2 years”.

11 (b) PROHIBITION ON IMPOSITION OF FEES RELAT-
12 ING TO NATURALIZATION.—Title III of the Immigration
13 and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

14 (1) in section 328(b)—

15 (A) in paragraph (3)—

16 (i) by striking “honorable. The” and
17 inserting “honorable (the”;

18 (ii) by striking “discharge.” and in-
19 serting “discharge); and”;

20 (B) by adding at the end the following:

21 “(4) notwithstanding any other provision of
22 law, no fee shall be charged or collected from the ap-
23 plicant for filing a petition for naturalization or for
24 the issuance of a certificate of naturalization upon
25 citizenship being granted to the applicant, and no
26 clerk of any State court shall charge or collect any

1 fee for such services unless the laws of the State re-
 2 quire such charge to be made, in which case nothing
 3 more than the portion of the fee required to be paid
 4 to the State shall be charged or collected.”; and

5 (2) in section 329(b)—

6 (A) in paragraph (2), by striking “and” at
 7 the end;

8 (B) in paragraph (3), by striking the pe-
 9 riod at the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(4) notwithstanding any other provision of
 12 law, no fee shall be charged or collected from the ap-
 13 plicant for filing a petition for naturalization or for
 14 the issuance of a certificate of naturalization upon
 15 citizenship being granted to the applicant, and no
 16 clerk of any State court shall charge or collect any
 17 fee for such services unless the laws of the State re-
 18 quire such charge to be made, in which case nothing
 19 more than the portion of the fee required to be paid
 20 to the State shall be charged or collected.”.

21 (c) NATURALIZATION PROCEEDINGS OVERSEAS FOR
 22 MEMBERS OF THE ARMED FORCES.—Notwithstanding
 23 any other provision of law, the Secretary of Homeland Se-
 24 curity, the Secretary of State, and the Secretary of De-
 25 fense shall ensure that any applications, interviews, filings,

1 oaths, ceremonies, or other proceedings under title III of
 2 the Immigration and Nationality Act (8 U.S.C. 1401 et
 3 seq.) relating to naturalization of members of the Armed
 4 Forces are available through United States embassies,
 5 consulates, and as practicable, United States military in-
 6 stallations overseas.

7 (d) TECHNICAL AND CONFORMING AMENDMENT.—
 8 Section 328(b)(3) of the Immigration and Nationality Act
 9 (8 U.S.C. 1439(b)(3)) is amended by striking “Attorney
 10 General” and inserting “Secretary of Homeland Secu-
 11 rity”.

12 **SEC. 3. NATURALIZATION BENEFITS FOR MEMBERS OF THE**
 13 **SELECTED RESERVE OF THE READY RE-**
 14 **SERVE.**

15 Section 329(a) of the Immigration and Nationality
 16 Act (8 U.S.C. 1440(a)) is amended by inserting “as a
 17 member of the Selected Reserve of the Ready Reserve or”
 18 after “has served honorably”.

19 **SEC. 4. EXTENSION OF POSTHUMOUS BENEFITS TO SUR-**
 20 **VIVING SPOUSES, CHILDREN, AND PARENTS.**

21 (a) TREATMENT AS IMMEDIATE RELATIVES.—

22 (1) SPOUSES.—Notwithstanding the second
 23 sentence of section 201(b)(2)(A)(i) of the Immigra-
 24 tion and Nationality Act (8 U.S.C.
 25 1151(b)(2)(A)(i)), in the case of an alien who was

1 the spouse of a citizen of the United States at the
2 time of the citizen's death and was not legally sepa-
3 rated from the citizen at the time of the citizen's
4 death, if the citizen served honorably in an active
5 duty status in the military, air, or naval forces of
6 the United States and died as a result of injury or
7 disease incurred in or aggravated by that service,
8 the alien (and each child of the alien) shall be con-
9 sidered, for purposes of section 201(b) of such Act,
10 to remain an immediate relative after the date of the
11 citizen's death, but only if the alien files a petition
12 under section 204(a)(1)(A)(ii) of such Act within 2
13 years after such date and only until the date the
14 alien remarries. For purposes of such section
15 204(a)(1)(A)(ii), an alien granted relief under the
16 preceding sentence shall be considered an alien
17 spouse described in the second sentence of section
18 201(b)(2)(A)(i) of such Act.

19 (2) CHILDREN.—

20 (A) IN GENERAL.—In the case of an alien
21 who was the child of a citizen of the United
22 States at the time of the citizen's death, if the
23 citizen served honorably in an active duty sta-
24 tus in the military, air, or naval forces of the
25 United States and died as a result of injury or

1 disease incurred in or aggravated by that serv-
2 ice, the alien shall be considered, for purposes
3 of section 201(b) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1151(b)), to remain an
5 immediate relative after the date of the citizen's
6 death (regardless of changes in age or marital
7 status thereafter), but only if the alien files a
8 petition under subparagraph (B) within 2 years
9 after such date.

10 (B) PETITIONS.—An alien described in
11 subparagraph (A) may file a petition with the
12 Secretary of Homeland Security for classifica-
13 tion of the alien under section 201(b)(2)(A)(i)
14 of the Immigration and Nationality Act (8
15 U.S.C. 1151(b)(2)(A)(i)). For purposes of such
16 Act, such a petition shall be considered a peti-
17 tion filed under section 204(a)(1)(A) of such
18 Act (8 U.S.C. 1154(a)(1)(A)).

19 (3) PARENTS.—

20 (A) IN GENERAL.—In the case of an alien
21 who was the parent of a citizen of the United
22 States at the time of the citizen's death, if the
23 citizen served honorably in an active duty sta-
24 tus in the military, air, or naval forces of the
25 United States and died as a result of injury or

1 disease incurred in or aggravated by that serv-
2 ice, the alien shall be considered, for purposes
3 of section 201(b) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1151(b)), to remain an
5 immediate relative after the date of the citizen's
6 death (regardless of changes in age or marital
7 status thereafter), but only if the alien files a
8 petition under subparagraph (B) within 2 years
9 after such date.

10 (B) PETITIONS.—An alien described in
11 subparagraph (A) may file a petition with the
12 Secretary of Homeland Security for classifica-
13 tion of the alien under section 201(b)(2)(A)(i)
14 of the Immigration and Nationality Act (8
15 U.S.C. 1151(b)(2)(A)(i)). For purposes of such
16 Act, such a petition shall be considered a peti-
17 tion filed under section 204(a)(1)(A) of such
18 Act (8 U.S.C. 1154(a)(1)(A)).

19 (C) EXCEPTION.—Notwithstanding section
20 201(b)(2)(A)(i) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1151(b)(2)(A)(i)), for pur-
22 poses of this paragraph, a citizen described in
23 subparagraph (A) does not have to be 21 years
24 of age for a parent to benefit under this para-
25 graph.

1 (b) APPLICATIONS FOR ADJUSTMENT OF STATUS BY
 2 SURVIVING SPOUSES, CHILDREN, AND PARENTS.—

3 (1) IN GENERAL.—Notwithstanding subsections
 4 (a) and (c) of section 245 of the Immigration and
 5 Nationality Act (8 U.S.C. 1255), any alien who was
 6 the spouse, child, or parent of an alien described in
 7 paragraph (2), and who applied for adjustment of
 8 status prior to the death described in paragraph
 9 (2)(B), may have such application adjudicated as if
 10 such death had not occurred.

11 (2) ALIEN DESCRIBED.—An alien is described
 12 in this paragraph if the alien—

13 (A) served honorably in an active duty sta-
 14 tus in the military, air, or naval forces of the
 15 United States;

16 (B) died as a result of injury or disease in-
 17 curred in or aggravated by that service; and

18 (C) was granted posthumous citizenship
 19 under section 329A of the Immigration and Na-
 20 tionality Act (8 U.S.C. 1440–1).

21 (c) SPOUSES AND CHILDREN OF LAWFUL PERMA-
 22 NENT RESIDENT ALIENS.—

23 (1) TREATMENT AS IMMEDIATE RELATIVES.—

24 (A) IN GENERAL.—A spouse or child of an
 25 alien described in paragraph (3) who is included

1 in a petition for classification as a family-spon-
2 sored immigrant under section 203(a)(2) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1153(a)(2)) that was filed by such alien, shall
5 be considered (if the spouse or child has not
6 been admitted or approved for lawful perma-
7 nent residence by such date) a valid petitioner
8 for immediate relative status under section
9 201(b)(2)(A)(i) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such
11 spouse or child shall be eligible for deferred ac-
12 tion, advance parole, and work authorization.

13 (B) PETITIONS.—An alien spouse or child
14 described in subparagraph (A) may file a peti-
15 tion with the Secretary of Homeland Security
16 for classification of the alien under section
17 201(b)(2)(A)(i) of the Immigration and Nation-
18 ality Act (8 U.S.C. 1151(b)(2)(A)(i)). For pur-
19 poses of such Act, such a petition shall be con-
20 sidered a petition filed under section
21 204(a)(1)(A) of such Act (8 U.S.C.
22 1154(a)(1)(A)).

23 (2) SELF-PETITIONS.—Any spouse or child of
24 an alien described in paragraph (3) who is not a
25 beneficiary of a petition for classification as a fam-

1 ily-sponsored immigrant may file a petition for such
 2 classification under section 201(b)(2)(A)(i) of the
 3 Immigration and Nationality Act (8 U.S.C.
 4 1151(b)(2)(A)(i)) with the Secretary of Homeland
 5 Security, but only if the spouse or child files a peti-
 6 tion within 2 years after such date. Such spouse or
 7 child shall be eligible for deferred action, advance
 8 parole, and work authorization.

9 (3) ALIEN DESCRIBED.—An alien is described
 10 in this paragraph if the alien—

11 (A) served honorably in an active duty sta-
 12 tus in the military, air, or naval forces of the
 13 United States;

14 (B) died as a result of injury or disease in-
 15 curred in or aggravated by that service; and

16 (C) was granted posthumous citizenship
 17 under section 329A of the Immigration and Na-
 18 tionality Act (8 U.S.C. 1440–1).

19 (d) PARENTS OF LAWFUL PERMANENT RESIDENT
 20 ALIENS.—

21 (1) SELF-PETITIONS.—Any parent of an alien
 22 described in paragraph (2) may file a petition for
 23 classification under section 201(b)(2)(A)(i) of the
 24 Immigration and Nationality Act (8 U.S.C.
 25 1151(b)(2)(A)(i)), but only if the parent files a peti-

1 tion within 2 years after such date. For purposes of
2 such Act, such petition shall be considered a petition
3 filed under section 204(a)(1)(A) of such Act (8
4 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible
5 for deferred action, advance parole, and work au-
6 thorization.

7 (2) ALIEN DESCRIBED.—An alien is described
8 in this paragraph if the alien—

9 (A) served honorably in an active duty sta-
10 tus in the military, air, or naval forces of the
11 United States;

12 (B) died as a result of injury or disease in-
13 curred in or aggravated by that service; and

14 (C) was granted posthumous citizenship
15 under section 329A of the Immigration and Na-
16 tionality Act (8 U.S.C. 1440–1).

17 (e) ADJUSTMENT OF STATUS.—Notwithstanding
18 subsections (a) and (c) of section 245 of the Immigration
19 and Nationality Act (8 U.S.C. 1255), an alien physically
20 present in the United States who is the beneficiary of a
21 petition under paragraph (1), (2)(B), or (3)(B) of sub-
22 section (a), paragraph (1)(B) or (2) of subsection (c), or
23 subsection (d)(1) of this section, may apply to the Sec-
24 retary of Homeland Security for adjustment of status to
25 that of an alien lawfully admitted for permanent residence.

1 (f) WAIVER OF CERTAIN GROUNDS OF INADMIS-
 2 SIBILITY.—In determining the admissibility of any alien
 3 accorded an immigration benefit under this section, the
 4 grounds for inadmissibility specified in paragraphs (4),
 5 (6), (7), and (9) of section 212(a) of the Immigration and
 6 Nationality Act (8 U.S.C. 1182(a)) shall not apply.

7 (g) BENEFITS TO SURVIVORS; TECHNICAL AMEND-
 8 MENT.—Section 329A of the Immigration and Nationality
 9 Act (8 U.S.C. 1440–1) is amended—

10 (1) by striking subsection (e); and

11 (2) by striking “Attorney General” each place
 12 that term appears and inserting “Secretary of
 13 Homeland Security”.

14 (h) TECHNICAL AND CONFORMING AMENDMENTS.—
 15 Section 319(d) of the Immigration and Nationality Act (8
 16 U.S.C. 1430(d)) is amended—

17 (1) by inserting “, child, or parent” after “sur-
 18 viving spouse”;

19 (2) by inserting “, parent, or child” after
 20 “whose citizen spouse”; and

21 (3) by striking “who was living” and inserting
 22 “who, in the case of a surviving spouse, was living”.

1 **SEC. 5. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect as if enacted on September 11, 2001.

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