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JUNE 10, 2003

Read twice and referred to the Committee on the Judiciary

JUNE 16, 2003

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, 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 “~~Armed Forces Natu-~~
5 ~~ralization Act of 2003~~”.

1 **SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED**
 2 **FORCES.**

3 (a) **REDUCTION OF PERIOD FOR REQUIRED SERV-**
 4 **ICE.—**

5 (1) **IN GENERAL.—**Section 328(a) of the Immi-
 6 gration and Nationality Act (8 U.S.C. 1429(a)) is
 7 amended by striking “three years,” and inserting
 8 “one year.”

9 (2) **EFFECTIVE DATE.—**The amendment made
 10 by paragraph (1) shall apply with respect to applica-
 11 tions for naturalization filed or pending on or after
 12 the date of the enactment of this Act.

13 (b) **PROHIBITION ON IMPOSITION OF FEES RELAT-**
 14 **ING TO NATURALIZATION.—**

15 (1) **IN GENERAL.—**Title III of the Immigration
 16 and Nationality Act (8 U.S.C. 1401 et seq.) is
 17 amended—

18 (A) in section 328(b)—

19 (i) in paragraph (3)—

20 (I) by striking “honorable. The”
 21 and inserting “honorable (the”;

22 (II) by striking “discharge.” and
 23 inserting “discharge); and”;

24 (ii) by adding at the end the fol-
 25 lowing:

1 “(4) notwithstanding any other provision of
2 law, no fee shall be charged or collected from the
3 person for filing the application, or for the issuance
4 of a certificate of naturalization upon being granted
5 citizenship, and no clerk of any State court shall
6 charge or collect any fee for such services unless the
7 laws of the State require such charge to be made,
8 in which case nothing more than the portion of the
9 fee required to be paid to the State shall be charged
10 or collected.”; and

11 (B) in section 329(b)—

12 (i) in paragraph (2), by striking
13 “and” at the end;

14 (ii) in paragraph (3), by striking the
15 period at the end and inserting “; and”;
16 and

17 (iii) by adding at the end the fol-
18 lowing:

19 “(4) notwithstanding any other provision of
20 law, no fee shall be charged or collected from the
21 person for filing the application, or for the issuance
22 of a certificate of naturalization upon being granted
23 citizenship, and no clerk of any State court shall
24 charge or collect any fee for such services unless the
25 laws of the State require such charge to be made,

1 in which case nothing more than the portion of the
2 fee required to be paid to the State shall be charged
3 or collected.”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by paragraph (1) shall apply with respect to applica-
6 tions for naturalization filed, and certificates of nat-
7 uralization issued, on or after the date of the enact-
8 ment of this Act. Such amendments shall not be
9 construed to require the refund or return of any fee
10 collected before such date.

11 (c) REVOCATION OF CITIZENSHIP FOR SEPARATION
12 FROM MILITARY SERVICE UNDER OTHER THAN HONOR-
13 ABLE CONDITIONS.—

14 (1) IN GENERAL.—Title III of the Immigration
15 and Nationality Act (8 U.S.C. 1401 et seq.) is
16 amended—

17 (A) by adding at the end of section 328
18 the following:

19 “(f) Citizenship granted pursuant to this section may
20 be revoked in accordance with section 340 if the person
21 is separated from the Armed Forces under other than hon-
22 orable conditions before the person has served honorably
23 for a period or periods aggregating five years. Such
24 ground for revocation shall be in addition to any other
25 provided by law, including the grounds described in section

1 340. The fact that the naturalized person was separated
2 from the service under other than honorable conditions
3 shall be proved by a duly authenticated certification from
4 the executive department under which the person was
5 serving at the time of separation. Any period or periods
6 of service shall be proved by duly authenticated copies of
7 the records of the executive departments having custody
8 of the records of such service.”; and

9 (B) by amending section 329(c) to read as
10 follows:

11 “(c) Citizenship granted pursuant to this section may
12 be revoked in accordance with section 340 if the person
13 is separated from the Armed Forces under other than hon-
14 orable conditions before the person has served honorably
15 for a period or periods aggregating five years. Such
16 ground for revocation shall be in addition to any other
17 provided by law, including the grounds described in section
18 340. The fact that the naturalized person was separated
19 from the service under other than honorable conditions
20 shall be proved by a duly authenticated certification from
21 the executive department under which the person was
22 serving at the time of separation. Any period or periods
23 of service shall be proved by duly authenticated copies of
24 the records of the executive departments having custody
25 of the records of such service.”.

1 (2) ~~EFFECTIVE DATE.~~—The amendments made
2 by paragraph (1) shall apply to citizenship granted
3 on or after the date of the enactment of this Act.

4 (d) ~~NATURALIZATION PROCEEDINGS OVERSEAS FOR~~
5 ~~MEMBERS OF ARMED FORCES.~~—Notwithstanding any
6 other provision of law, the Secretary of Homeland Secu-
7 rity, the Secretary of State, and the Secretary of Defense
8 shall ensure that any applications, interviews, filings,
9 oaths, ceremonies, or other proceedings under title III of
10 the Immigration and Nationality Act (8 U.S.C. 1401 et
11 seq.) relating to naturalization of members of the Armed
12 Forces are available, to the maximum extent practicable,
13 through United States embassies, consulates, and United
14 States military installations overseas.

15 (e) ~~TECHNICAL AMENDMENT.~~—

16 (1) ~~IN GENERAL.~~—Section 328(b)(3) of the Im-
17 migration and Nationality Act (8 U.S.C. 1439(b)(3))
18 is amended by striking “Attorney General,” and in-
19 serting “Secretary of Homeland Security.”

20 (2) ~~EFFECTIVE DATE.~~—The amendment made
21 by paragraph (1) shall take effect as if enacted on
22 March 1, 2003.

1 **SEC. 3. POSTHUMOUS CITIZENSHIP THROUGH DEATH**
2 **WHILE ON ACTIVE-DUTY SERVICE IN ARMED**
3 **FORCES.**

4 (a) PROHIBITION ON IMPOSITION OF FEES; BENE-
5 FITS FOR SURVIVORS.—

6 (1) IN GENERAL.—Section 329A of the Immi-
7 gration and Nationality Act (8 U.S.C. 1440–1) is
8 amended by striking subsection (e) and inserting the
9 following:

10 “(e) PROHIBITION ON IMPOSITION OF FEES.—Not-
11 withstanding any other provision of law, no fee shall be
12 charged or collected from a person for filing a request for
13 the granting of posthumous citizenship under subsection
14 (e), or for the issuance of a document under subsection
15 (d).

16 “(f) BENEFITS FOR SURVIVORS.—

17 “(1) APPLICABILITY.—Notwithstanding any
18 other provision of this subsection, this subsection
19 shall apply only to the surviving spouses, children,
20 and parents of persons dying on or after September
21 11, 2001.

22 “(2) SPOUSES.—Notwithstanding the second
23 sentence of section 201(b)(2)(A)(i), a person who is
24 the surviving spouse of a person granted post-
25 humous citizenship under this section, and who was
26 living in marital union with the citizen spouse at the

1 time of death, shall be considered, for purposes of
2 section 201(b), to remain an immediate relative after
3 the date of the citizen's death, but only until the
4 date on which the surviving spouse remarries.

5 “(3) CHILDREN.—Notwithstanding the second
6 sentence of section 201(b)(2)(A)(i), a person who is
7 the surviving child of a person granted posthumous
8 citizenship under this section, and who is an unmar-
9 ried person under 21 years of age on the date of
10 such grant, shall be considered, for purposes of sec-
11 tion 201(b), to remain an immediate relative after
12 the date of the citizen's death (regardless of changes
13 in age or marital status after the date of such
14 grant).

15 “(4) PARENTS.—Notwithstanding the first sen-
16 tence of section 201(b)(2)(A)(i), a person who is the
17 surviving parent of a person granted posthumous
18 citizenship under this section, and who is lawfully
19 authorized to be present in the United States on the
20 date of the citizen's death (disregarding any depar-
21 ture for a temporary visit abroad), shall be consid-
22 ered, for purposes of section 201(b), to remain an
23 immediate relative after such date, and the require-
24 ment that the citizen be at least 21 years of age
25 shall not apply.

1 “(5) SELF-PETITIONS.—

2 “(A) IN GENERAL.—In the case of a sur-
3 viving spouse, child, or parent who remains an
4 immediate relative after the date of a citizen’s
5 death pursuant to paragraph (2), (3), or (4),
6 any petition under section 204 otherwise re-
7 quired to be filed by the citizen to classify the
8 spouse, child, or parent under section
9 201(b)(2)(A)(i) may be filed instead by the
10 spouse, child, or parent. A surviving spouse’s
11 petition may include derivative children in the
12 same manner as is permitted under section
13 204(a)(1)(A)(ii).

14 “(B) MINOR CHILDREN.—In the case of a
15 child under 18 years of age on the filing date,
16 any nonderivative petition described in subpara-
17 graph (A) shall be filed on behalf of the child
18 by a parent or legal guardian of the child.

19 “(6) DEADLINE.—Paragraphs (1) through (5)
20 shall apply only if the petition under paragraph (5)
21 is filed not later than 2 years after the date on
22 which the request under subsection (c) is granted.

23 “(7) CONVERSION OF PETITIONS.—In the case
24 of a petition under section 204 initially filed for an
25 alien’s classification as a family-sponsored immi-

1 grant under section 203(a)(2)(A), based on the
2 alien's petitioning spouse or parent being lawfully
3 admitted for permanent residence; upon the grant of
4 posthumous citizenship under this section to the pe-
5 titioner, the Secretary of Homeland Security, unless
6 the alien otherwise has attained the status of an
7 alien lawfully admitted for permanent residence—

8 “(A) shall convert such petition to a peti-
9 tion filed under paragraph (5) to classify the
10 alien as an immediate relative under subsection
11 (b)(2)(A)(i); and

12 “(B) shall ensure that the filing date of
13 the original petition is maintained.

14 “(8) WAIVER OF PUBLIC CHARGE GROUND FOR
15 INADMISSIBILITY.—In determining the admissibility
16 of any alien accorded an immigration benefit under
17 this subsection, the grounds for inadmissibility speci-
18 fied in section 212(a)(4) shall not apply.

19 “(9) NO BENEFITS FOR OTHER RELATIVES.—
20 Nothing in this section shall be construed as pro-
21 viding for any benefit under this Act for any relative
22 of a person granted posthumous citizenship under
23 this section who is not treated as a spouse, child, or
24 parent under this subsection.”.

1 (2) CONVERSION OF PETITIONS.—In the case of
2 a surviving spouse or child accorded an immigration
3 benefit under section 329(f) of the Immigration and
4 Nationality Act, as added by paragraph (1), if the
5 spouse or child was the beneficiary of a petition de-
6 scribed in paragraph (7) of such section, unless the
7 beneficiary otherwise has attained the status of an
8 alien lawfully admitted for permanent residence, the
9 Secretary of Homeland Security shall provide for—

10 (A) the reinstatement of such petition, if it
11 was revoked or terminated (or otherwise ren-
12 dered null), either before or after its approval,
13 due to the death of the petitioner; and

14 (B) the conversion of such petition in ac-
15 cordance with such section.

16 (3) EFFECTIVE DATES.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), the amendment made by
19 paragraph (1) shall apply with respect to post-
20 humous citizenship granted before, on, or after
21 the date of the enactment of this section.

22 (B) FEES.—Section 329A(e) of the Immi-
23 gration and Nationality Act, as amended by
24 paragraph (1), shall apply with respect to re-
25 quests for posthumous citizenship filed, and

1 documentation of posthumous citizenship
2 issued, on or after the date of the enactment of
3 this Act. Such section shall not be construed to
4 require the refund or return of any fee collected
5 before such date.

6 (b) NATURALIZATION FOR SURVIVING SPOUSES.—

7 (1) IN GENERAL.—Section 319(d) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1430(d)) is
9 amended by adding at the end the following: “For
10 purposes of this subsection, the terms ‘United States
11 citizen’ and ‘citizen spouse’ include a person granted
12 posthumous citizenship under section 329A.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply with respect to persons
15 granted posthumous citizenship under section 329A
16 of the Immigration and Nationality Act (8 U.S.C.
17 1440–1) due to death on or after September 11,
18 2001.

19 (c) TECHNICAL AMENDMENTS.—

20 (1) IN GENERAL.—Section 329A of the Immi-
21 gration and Nationality Act (8 U.S.C. 1440–1) is
22 amended by striking “Attorney General” each place
23 such term appears and inserting “Secretary of
24 Homeland Security”.

1 (2) ~~EFFECTIVE DATE.~~—The amendment made
2 by paragraph (1) shall take effect as if enacted on
3 March 1, 2003.

4 **SEC. 4. IMMIGRATION BENEFITS FOR SURVIVING ALIEN**
5 **SPOUSES, CHILDREN, AND PARENTS OF CITI-**
6 **ZENS WHO DIE DURING SERVICE IN ARMED**
7 **FORCES.**

8 (a) ~~TREATMENT AS IMMEDIATE RELATIVES.~~—

9 (1) ~~IN GENERAL.~~—Section 201(f) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1151(f)) is
11 amended by adding at the end the following:

12 “~~(4) SURVIVING ALIEN SPOUSES, CHILDREN,~~
13 ~~AND PARENTS OF CITIZENS WHO DIE DURING SERV-~~
14 ~~ICE IN ARMED FORCES.~~—

15 “~~(A) BENEFITS FOR SURVIVORS.~~—

16 “~~(i) IN GENERAL.~~—The benefits
17 under this paragraph shall apply only to a
18 surviving spouse, child, or parent of a per-
19 son who, while a citizen of the United
20 States, died on or after September 11,
21 2001, during a period of honorable service
22 in the Armed Forces as a result of injury
23 or disease incurred in or aggravated by
24 such service.

1 “(ii) DETERMINATIONS.—The execu-
2 tive department under which the citizen so
3 served shall determine whether the citizen
4 satisfied the requirements of clause (i).

5 “(B) SPOUSES.—Notwithstanding the sec-
6 ond sentence of subsection (b)(2)(A)(i), a per-
7 son who is a surviving spouse described in sub-
8 paragraph (A), and who was living in marital
9 union with the citizen described in such sub-
10 paragraph at the time of death, shall be consid-
11 ered, for purposes of subsection (b), to remain
12 an immediate relative after the date of the citi-
13 zen’s death, but only until the date on which
14 the surviving spouse remarries.

15 “(C) CHILDREN.—Notwithstanding the
16 second sentence of subsection (b)(2)(A)(i), a
17 person who is a surviving child described in
18 subparagraph (A), and who is an unmarried
19 person under 21 years of age on the date on
20 which a petition described in subparagraph (E)
21 to classify the alien as an immediate relative is
22 filed, shall be considered, for purposes of sub-
23 section (b), to remain an immediate relative
24 after the date of the citizen’s death (regardless

1 of changes in age or marital status after such
2 filing date).

3 “(D) PARENTS.—Notwithstanding the first
4 sentence of subsection (b)(2)(A)(i), and subject
5 to subparagraph (E), a person who is a sur-
6 viving parent described in subparagraph (A)
7 shall be considered, for purposes of subsection
8 (b), to remain an immediate relative after such
9 date, and the requirement that the citizen be at
10 least 21 years of age shall not apply.

11 “(E) TREATMENT OF PETITIONS.—

12 “(i) CONTINUATION OF PETITIONS.—

13 A petition properly filed on behalf of a
14 spouse, child, or parent under section
15 204(a)(1)(A)(i) by a citizen described in
16 subparagraph (A) prior to the citizen’s
17 death shall be valid to classify the spouse,
18 child, or parent as an immediate relative
19 pursuant to this paragraph. No new peti-
20 tion shall be required to be filed, and any
21 filing date assigned prior to the death shall
22 be maintained.

23 “(ii) SELF-PETITIONS.—

24 “(I) SPOUSES.—In the case of a
25 surviving spouse who remains an im-

1 mediate relative after the date of a
2 citizen's death pursuant to subpara-
3 graph (B), the spouse may file a peti-
4 tion under section 204(a)(1)(A)(ii) for
5 classification of the spouse (and the
6 spouse's children) under subsection
7 (b)(2)(A)(i). The spouse shall be
8 treated as an alien spouse described in
9 the second sentence of subsection
10 (b)(2)(A)(i) for such purpose.

11 “(II) CHILDREN.—In the case of
12 a surviving child who remains an im-
13 mediate relative after the date of a
14 citizen's death pursuant to subpara-
15 graph (C), any petition under section
16 204 otherwise required to be filed by
17 the citizen to classify the child under
18 subsection (b)(2)(A)(i) may be filed
19 instead by the child. In the case of a
20 child under 18 years of age on the fil-
21 ing date, the petition described in this
22 subclause shall be filed on behalf of
23 the child by a parent or legal guard-
24 ian of the child.

1 “~~(III) PARENTS.~~—In the case of
2 a surviving parent who remains an
3 immediate relative after the date of a
4 citizen’s death pursuant to subpara-
5 graph ~~(D)~~, any petition under section
6 204 otherwise required to be filed by
7 the citizen to classify the parent under
8 subsection ~~(b)(2)(A)(i)~~ may be filed
9 instead by the parent, but only if the
10 parent was lawfully authorized to be
11 present in the United States on the
12 date of the citizen’s death (dis-
13 regarding any departure for a tem-
14 porary visit abroad).

15 “~~(iii) DEADLINE.~~—In the case of peti-
16 tion under clause ~~(ii)~~, subparagraphs ~~(B)~~,
17 ~~(C)~~, and ~~(D)~~ shall apply only if such peti-
18 tion is filed not later than 2 years after the
19 date of the citizen’s death.

20 “~~(F) WAIVER OF PUBLIC CHARGE GROUND~~
21 ~~FOR INADMISSIBILITY.~~—In determining the ad-
22 missibility of any alien accorded an immigration
23 benefit under this paragraph, the grounds for
24 inadmissibility specified in section 212(a)(4)
25 shall not apply.”

1 (2) CONTINUATION OF PETITIONS.—

2 (A) IN GENERAL.—The Secretary of
3 Homeland Security shall provide for the rein-
4 statement of any petition filed by a deceased
5 person described in subparagraph (A) of section
6 201(f)(4) of the Immigration and Nationality
7 Act, as added by paragraph (1), if such petition
8 is described in subparagraph (E)(i) of such sec-
9 tion and was revoked or terminated (or other-
10 wise rendered null), either before or after its
11 approval, due to the death of such person, un-
12 less the beneficiary otherwise has attained the
13 status of an alien lawfully admitted for perma-
14 nent residence.

15 (B) EXCEPTION.—A petition otherwise sat-
16 isfying the requirements of subparagraph (A)
17 and filed by a citizen on behalf of a parent shall
18 not be reinstated unless the parent was lawfully
19 authorized to be present in the United States
20 on the date of the citizen's death (disregarding
21 any departure for a temporary visit abroad).

22 (3) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall take effect on the date of the
24 enactment of this Act.

25 (b) TECHNICAL AMENDMENT.—

1 (1) ~~IN GENERAL.~~—Section 201(f)(1) of the Im-
 2 migration and Nationality Act (8 U.S.C. 201(f)(1))
 3 is amended by striking “Attorney General” and in-
 4 serting “Secretary of Homeland Security”.

5 (2) ~~EFFECTIVE DATE.~~—The amendment made
 6 by paragraph (1) shall take effect as if enacted on
 7 March 1, 2003.

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Naturalization and*
 10 *Family Protection for Military Members Act of 2003”.*

11 **SEC. 2. REQUIREMENTS FOR NATURALIZATION THROUGH**
 12 **SERVICE IN THE ARMED FORCES OF THE**
 13 **UNITED STATES.**

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

18 (b) *PROHIBITION ON IMPOSITION OF FEES RELATING*
 19 *TO NATURALIZATION.*—Title III of the Immigration and
 20 Nationality Act (8 U.S.C. 1401 et seq.) is amended—

21 (1) *in section 328(b)—*

22 (A) *in paragraph (3)—*

23 (i) *by striking “honorable. The” and*
 24 *inserting “honorable (the”;* and

1 (ii) by striking “discharge.” and in-
2 serting “discharge); and”;

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

4 “(4) notwithstanding any other provision of law,
5 no fee shall be charged or collected from the applicant
6 for filing a petition for naturalization or for the
7 issuance of a certificate of naturalization upon citi-
8 zenship being granted to the applicant, and no clerk
9 of any State court shall charge or collect any fee for
10 such services unless the laws of the State require such
11 charge to be made, in which case nothing more than
12 the portion of the fee required to be paid to the State
13 shall be charged or collected.”; and

14 (2) in section 329(b)—

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

17 (B) in paragraph (3), by striking the period
18 at the end and inserting “; and”;

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

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

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

5 *(c) NATURALIZATION PROCEEDINGS OVERSEAS FOR*
6 *MEMBERS OF THE ARMED FORCES.—Notwithstanding any*
7 *other provision of law, the Secretary of Homeland Security,*
8 *the Secretary of State, and the Secretary of Defense shall*
9 *ensure that any applications, interviews, filings, oaths,*
10 *ceremonies, or other proceedings under title III of the Immi-*
11 *gration and Nationality Act (8 U.S.C. 1401 et seq.) relating*
12 *to naturalization of members of the Armed Forces are avail-*
13 *able through United States embassies, consulates, and as*
14 *practicable, United States military installations overseas.*

15 *(d) FINALIZATION OF NATURALIZATION PROCEEDINGS*
16 *FOR MEMBERS OF THE ARMED FORCES.—Not later than*
17 *90 days after the date of enactment of this Act, the Sec-*
18 *retary of Defense shall prescribe a policy that facilitates the*
19 *opportunity for a member of the Armed Forces to finalize*
20 *naturalization for which the member has applied. The pol-*
21 *icy shall include, for such purpose, the following:*

22 *(1) A high priority for grant of emergency leave.*

23 *(2) A high priority for transportation on air-*
24 *craft of, or chartered by, the Armed Forces.*

1 (e) *TECHNICAL AND CONFORMING AMENDMENT.*—*Sec-*
 2 *tion 328(b)(3) of the Immigration and Nationality Act (8*
 3 *U.S.C. 1439(b)(3)) is amended by striking “Attorney Gen-*
 4 *eral” and inserting “Secretary of Homeland Security”.*

5 **SEC. 3. NATURALIZATION BENEFITS FOR MEMBERS OF THE**
 6 **SELECTED RESERVE OF THE READY RE-**
 7 **SERVE.**

8 Section 329(a) of the Immigration and Nationality
 9 Act (8 U.S.C. 1440(a)) is amended by inserting “as a mem-
 10 ber of the Selected Reserve of the Ready Reserve or” after
 11 “has served honorably”.

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

14 (a) *TREATMENT AS IMMEDIATE RELATIVES.*—

15 (1) *SPOUSES.*—*Notwithstanding the second sen-*
 16 *tence of section 201(b)(2)(A)(i) of the Immigration*
 17 *and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in*
 18 *the case of an alien who was the spouse of a citizen*
 19 *of the United States at the time of the citizen’s death*
 20 *and was not legally separated from the citizen at the*
 21 *time of the citizen’s death, if the citizen served honor-*
 22 *ably in an active duty status in the military, air, or*
 23 *naval forces of the United States and died as a result*
 24 *of injury or disease incurred in or aggravated by*
 25 *combat, the alien (and each child of the alien) shall*

1 *be considered, for purposes of section 201(b) of such*
2 *Act, to remain an immediate relative after the date*
3 *of the citizen's death, but only if the alien files a peti-*
4 *tion under section 204(a)(1)(A)(ii) of such Act within*
5 *2 years after such date and only until the date the*
6 *alien remarries. For purposes of such section*
7 *204(a)(1)(A)(ii), an alien granted relief under the*
8 *preceding sentence shall be considered an alien spouse*
9 *described in the second sentence of section*
10 *201(b)(2)(A)(i) of such Act.*

11 (2) *CHILDREN.—*

12 (A) *IN GENERAL.—In the case of an alien*
13 *who was the child of a citizen of the United*
14 *States at the time of the citizen's death, if the*
15 *citizen served honorably in an active duty status*
16 *in the military, air, or naval forces of the United*
17 *States and died as a result of injury or disease*
18 *incurred in or aggravated by combat, the alien*
19 *shall be considered, for purposes of section 201(b)*
20 *of the Immigration and Nationality Act (8*
21 *U.S.C. 1151(b)), to remain an immediate rel-*
22 *ative after the date of the citizen's death (regard-*
23 *less of changes in age or marital status there-*
24 *after), but only if the alien files a petition under*
25 *subparagraph (B) within 2 years after such date.*

1 (B) *PETITIONS.*—*An alien described in sub-*
2 *paragraph (A) may file a petition with the Sec-*
3 *retary of Homeland Security for classification of*
4 *the alien under section 201(b)(2)(A)(i) of the Im-*
5 *migration and Nationality Act (8 U.S.C.*
6 *1151(b)(2)(A)(i)). For purposes of such Act, such*
7 *a petition shall be considered a petition filed*
8 *under section 204(a)(1)(A) of such Act (8 U.S.C.*
9 *1154(a)(1)(A)).*

10 (3) *PARENTS.*—

11 (A) *IN GENERAL.*—*In the case of an alien*
12 *who was the parent of a citizen of the United*
13 *States at the time of the citizen's death, if the*
14 *citizen served honorably in an active duty status*
15 *in the military, air, or naval forces of the United*
16 *States and died as a result of injury or disease*
17 *incurred in or aggravated by combat, the alien*
18 *shall be considered, for purposes of section 201(b)*
19 *of the Immigration and Nationality Act (8*
20 *U.S.C. 1151(b)), to remain an immediate rel-*
21 *ative after the date of the citizen's death (regard-*
22 *less of changes in age or marital status there-*
23 *after), but only if the alien files a petition under*
24 *subparagraph (B) within 2 years after such date.*

1 (B) *PETITIONS.*—An alien described in sub-
2 paragraph (A) may file a petition with the Sec-
3 retary of Homeland Security for classification of
4 the alien under section 201(b)(2)(A)(i) of the Im-
5 migration and Nationality Act (8 U.S.C.
6 1151(b)(2)(A)(i)). For purposes of such Act, such
7 a petition shall be considered a petition filed
8 under section 204(a)(1)(A) of such Act (8 U.S.C.
9 1154(a)(1)(A)).

10 (C) *EXCEPTION.*—Notwithstanding section
11 201(b)(2)(A)(i) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1151(b)(2)(A)(i)), for pur-
13 poses of this paragraph, a citizen described in
14 subparagraph (A) does not have to be 21 years
15 of age for a parent to benefit under this para-
16 graph.

17 (b) *APPLICATIONS FOR ADJUSTMENT OF STATUS BY*
18 *SURVIVING SPOUSES, CHILDREN, AND PARENTS.*—

19 (1) *IN GENERAL.*—Notwithstanding subsections
20 (a) and (c) of section 245 of the Immigration and Na-
21 tionality Act (8 U.S.C. 1255), any alien who was the
22 spouse, child, or parent of an alien described in para-
23 graph (2), and who applied for adjustment of status
24 prior to the death described in paragraph (2)(B),

1 *may have such application adjudicated as if such*
2 *death had not occurred.*

3 (2) *ALIEN DESCRIBED.—An alien is described in*
4 *this paragraph if the alien—*

5 (A) *served honorably in an active duty sta-*
6 *tus in the military, air, or naval forces of the*
7 *United States;*

8 (B) *died as a result of injury or disease in-*
9 *curring in or aggravated by combat; and*

10 (C) *was granted posthumous citizenship*
11 *under section 329A of the Immigration and Na-*
12 *tionality Act (8 U.S.C. 1440–1).*

13 (c) *SPOUSES AND CHILDREN OF LAWFUL PERMANENT*
14 *RESIDENT ALIENS.—*

15 (1) *TREATMENT AS IMMEDIATE RELATIVES.—*

16 (A) *IN GENERAL.—A spouse or child of an*
17 *alien described in paragraph (3) who is included*
18 *in a petition for classification as a family-spon-*
19 *sored immigrant under section 203(a)(2) of the*
20 *Immigration and Nationality Act (8 U.S.C.*
21 *1153(a)(2)) that was filed by such alien, shall be*
22 *considered (if the spouse or child has not been*
23 *admitted or approved for lawful permanent resi-*
24 *dence by such date) a valid petitioner for imme-*
25 *diately relative status under section*

1 201(b)(2)(A)(i) of the Immigration and Nation-
2 ality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such
3 spouse or child shall be eligible for deferred ac-
4 tion, advance parole, and work authorization.

5 (B) PETITIONS.—An alien spouse or child
6 described in subparagraph (A) may file a peti-
7 tion with the Secretary of Homeland Security
8 for classification of the alien 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)). For pur-
11 poses of such Act, such a petition shall be consid-
12 ered a petition filed under section 204(a)(1)(A)
13 of such Act (8 U.S.C. 1154(a)(1)(A)).

14 (2) SELF-PETITIONS.—Any spouse or child of an
15 alien described in paragraph (3) who is not a bene-
16 ficiary of a petition for classification as a family-
17 sponsored immigrant may file a petition for such
18 classification under section 201(b)(2)(A)(i) of the Im-
19 migration and Nationality Act (8 U.S.C.
20 1151(b)(2)(A)(i)) with the Secretary of Homeland Se-
21 curity, but only if the spouse or child files a petition
22 within 2 years after such date. Such spouse or child
23 shall be eligible for deferred action, advance parole,
24 and work authorization.

1 (3) *ALIEN DESCRIBED.*—*An alien is described in*
2 *this paragraph if the alien—*

3 (A) *served honorably in an active duty sta-*
4 *tus in the military, air, or naval forces of the*
5 *United States;*

6 (B) *died as a result of injury or disease in-*
7 *curring in or aggravated by combat; and*

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

11 (d) *PARENTS OF LAWFUL PERMANENT RESIDENT*
12 *ALIENS.*—

13 (1) *SELF-PETITIONS.*—*Any parent of an alien*
14 *described in paragraph (2) may file a petition for*
15 *classification under section 201(b)(2)(A)(i) of the Im-*
16 *migration and Nationality Act (8 U.S.C.*
17 *1151(b)(2)(A)(i)), but only if the parent files a peti-*
18 *tion within 2 years after such date. For purposes of*
19 *such Act, such petition shall be considered a petition*
20 *filed under section 204(a)(1)(A) of such Act (8 U.S.C.*
21 *1154(a)(1)(A)). Such parent shall be eligible for de-*
22 *ferred action, advance parole, and work authoriza-*
23 *tion.*

24 (2) *ALIEN DESCRIBED.*—*An alien is described in*
25 *this paragraph if the alien—*

1 (A) served honorably in an active duty sta-
2 tus in the military, air, or naval forces of the
3 United States;

4 (B) died as a result of injury or disease in-
5 curred in or aggravated by combat; and

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

9 (e) *ADJUSTMENT OF STATUS*.—Notwithstanding sub-
10 sections (a) and (c) of section 245 of the Immigration and
11 Nationality Act (8 U.S.C. 1255), an alien physically
12 present in the United States who is the beneficiary of a
13 petition under paragraph (1), (2)(B), or (3)(B) of sub-
14 section (a), paragraph (1)(B) or (2) of subsection (c), or
15 subsection (d)(1) of this section, may apply to the Secretary
16 of Homeland Security for adjustment of status to that of
17 an alien lawfully admitted for permanent residence.

18 (f) *WAIVER OF CERTAIN GROUNDS OF INADMIS-*
19 *SIBILITY*.—In determining the admissibility of any alien
20 accorded an immigration benefit under this section, the
21 ground for inadmissibility specified in section 212(a)(4) of
22 the Immigration and Nationality Act (8 U.S.C. 1182(a)(4))
23 shall not apply, and notwithstanding any other provision
24 of law, the Secretary of Homeland Security may waive
25 paragraph (6)(A), (7), and (9)(B) of section 212(a) of the

1 *Immigration and Nationality Act (8 U.S.C. 1182(a)) with*
2 *respect to such an alien if the alien establishes exceptional*
3 *and extremely unusual hardship to the alien or the alien’s*
4 *spouse, parent, or child, who is a citizen of the United*
5 *States or an alien lawfully admitted for permanent resi-*
6 *dence. Any such waiver by the Secretary of Homeland Secu-*
7 *rity shall be in writing and shall be granted only on an*
8 *individual basis following an investigation.*

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

12 (1) *by striking subsection (e); and*

13 (2) *by striking “Attorney General” each place*
14 *that term appears and inserting “Secretary of Home-*
15 *land Security”.*

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

19 (1) *by inserting “, child, or parent” after “sur-*
20 *viving spouse”;*

21 (2) *by inserting “, parent, or child” after “whose*
22 *citizen spouse”;* and

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

1 **SEC. 5. EXPEDITED PROCESS FOR GRANTING POSTHUMOUS**
2 **CITIZENSHIP TO MEMBERS OF THE ARMED**
3 **FORCES.**

4 *Section 329A of the Immigration and Nationality Act*
5 *(8 U.S.C. 1440-1) is amended—*

6 *(1) by striking subsection (c) and inserting the*
7 *following:*

8 *“(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—*

9 *“(1) IN GENERAL.—A request for the granting of*
10 *posthumous citizenship to a person described in sub-*
11 *section (b) may be filed on behalf of that person—*

12 *“(A) upon locating the next-of-kin, and if so*
13 *requested by the next-of-kin, by the Secretary of*
14 *Defense or the Secretary’s designee with the Bu-*
15 *reau of Citizenship and Immigration Services in*
16 *the Department of Homeland Security imme-*
17 *diately upon the death of that person; or*

18 *“(B) by the next-of-kin.*

19 *“(2) APPROVAL.—The Director of the Bureau of*
20 *Citizenship and Immigration Services shall approve a*
21 *request for posthumous citizenship filed by the next-*
22 *of-kin in accordance with paragraph (1)(B) if—*

23 *“(A) the request is filed not later than 2*
24 *years after—*

25 *“(i) the date of enactment of this sec-*
26 *tion; or*

1 “(ii) the date of the person’s death;
2 whichever date is later;

3 “(B) the request is accompanied by a duly
4 authenticated certificate from the executive de-
5 partment under which the person served which
6 states that the person satisfied the requirements
7 of paragraphs (1) and (2) of subsection (b); and

8 “(C) the Director finds that the person sat-
9 isfied the requirement of subsection (b)(3).”; and
10 (2) by striking subsection (d) and inserting the
11 following:

12 “(d) *DOCUMENTATION OF POSTHUMOUS CITIZEN-*
13 *SHIP.—If the Director of the Bureau of Citizenship and Im-*
14 *migration Services approves the request referred to in sub-*
15 *section (c), the Director shall send to the next-of-kin of the*
16 *person who is granted citizenship, a suitable document*
17 *which states that the United States considers the person to*
18 *have been a citizen of the United States at the time of the*
19 *person’s death.”.*

20 **SEC. 6. EFFECTIVE DATE.**

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

Calendar No. 142

108TH CONGRESS
1ST SESSION

H. R. 1954

AN ACT

To revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

JUNE 16, 2003

Reported with an amendment