

## Calendar No. 142

108TH CONGRESS  
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IN THE SENATE OF THE UNITED STATES

JUNE 5, 2003

Received

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]

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**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 Immigra-  
6 tion and Nationality Act (8 U.S.C. 1439(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); and

22 (II) by striking “discharge.” and  
23 inserting “discharge); and”; 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(e) to read as  
10 follows:

11 “(e) 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.”.

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

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

15 (e) TECHNICAL AMENDMENT.—

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 Immig-  
7           ration 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 unmarried  
9 person under 21 years of age on the date of  
10 such grant, shall be considered, for purposes of section  
11 201(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 sentence  
16 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 departure  
21 for a temporary visit abroad), shall be considered,  
22 for purposes of section 201(b), to remain an immediate  
23 relative after such date, and the requirement  
24 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 (e) 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.”

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

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

16 (3) EFFECTIVE DATES.—

22 (B) FEES.—Section 329A(e) of the Immig-  
23 ration 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 Immig-  
8 ration 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 Immig-  
21 ration 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”.

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.—

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

1                     “(ii) DETERMINATIONS.—The executive  
2                     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 second sentence of subsection (b)(2)(A)(i), a person who is a surviving spouse described in subparagraph (A), and who was living in marital union with the citizen described in such subparagraph at the time of death, shall be considered, for purposes of subsection (b), to remain an immediate relative after the date of the citizen’s death, but only until the date on which the surviving spouse remarries.

15                     “(C) CHILDREN.—Notwithstanding the second sentence of subsection (b)(2)(A)(i), a person who is a surviving child described in subparagraph (A), and who is an unmarried person under 21 years of age on the date on which a petition described in subparagraph (E) to classify the alien as an immediate relative is filed, shall be considered, for purposes of subsection (b), to remain an immediate relative 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 viv ing 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 subparagraph (B), the spouse may file a petition  
3                   under section 204(a)(1)(A)(ii) for  
4                   classification of the spouse (and the  
5                   spouse's children) under subsection  
6                   (b)(2)(A)(i). The spouse shall be  
7                   treated as an alien spouse described in  
8                   the second sentence of subsection  
9                   (b)(2)(A)(i) for such purpose.

11                   “(H) 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 subparagraph (C), any petition under section  
15                   204 otherwise required to be filed by  
16                   the citizen to classify the child under  
17                   subsection (b)(2)(A)(i) may be filed  
18                   instead by the child. In the case of a  
19                   child under 18 years of age on the fil-  
20                   ing date, the petition described in this  
21                   subclause shall be filed on behalf of  
22                   the child by a parent or legal guard-  
23                   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 subparagraph  
5                         (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.”.

**(2) ~~CONTINUATION OF PETITIONS.~~**

(A) IN GENERAL.—The Secretary of Homeland Security shall provide for the reinstatement of any petition filed by a deceased person described in subparagraph (A) of section 201(f)(4) of the Immigration and Nationality Act, as added by paragraph (1), if such petition is described in subparagraph (E)(i) of such section and was revoked or terminated (or otherwise rendered null), either before or after its approval, due to the death of such person, unless the beneficiary otherwise has attained the status of an alien lawfully admitted for permanent 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

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  
0     such services unless the laws of the State require such  
1     charge to be made, in which case nothing more than  
2     the portion of the fee required to be paid to the State  
3     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”: 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 Immig-  
11      ration 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.

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.*—

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.

10 (3) *PARENTS.*—

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       *curred 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       *diate 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.

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

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

11 (d) PARENTS OF LAWFUL PERMANENT RESIDENT

12 *ALIENS.*—

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality 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.

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**

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**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.

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JUNE 16, 2003

Reported with an amendment