

109TH CONGRESS
1ST SESSION

H. R. 661

To provide for naturalization through service in a combat zone designated in connection with Operation Iraqi Freedom, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2005

Mr. RANGEL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for naturalization through service in a combat zone designated in connection with Operation Iraqi Freedom, 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 “Riayan Tejada Memo-
5 rial Act of 2005”.

6 **SEC. 2. REQUIREMENTS FOR NATURALIZATION THROUGH**
7 **SERVICE IN COMBAT ZONE DURING OPER-**
8 **ATION IRAQI FREEDOM.**

9 (a) IN GENERAL.—An alien described in subsection
10 (b) may be naturalized without regard to the requirements

1 of title III of the Immigration and Nationality Act (8
2 U.S.C. 1401 et seq.) if the alien—

3 (1) files an application for naturalization in ac-
4 cordance such procedures to carry out this section as
5 may be established by regulation by the Secretary of
6 Homeland Security; and

7 (2) takes the oath required by section 337 of
8 such Act (8 U.S.C. 1448) in accordance with such
9 procedures.

10 (b) ALIENS DESCRIBED.—An alien described in this
11 subsection is an alien who—

12 (1) while an alien or noncitizen national of the
13 United States, served honorably for any period of
14 time in the Army, Navy, Air Force, Marine Corps
15 (including reserve components), or in the Coast
16 Guard or Coast Guard Reserve, in a combat zone
17 designated in connection with Operation Iraqi Free-
18 dom; and

19 (2) if separated from such service, was never
20 separated except under honorable conditions.

21 (c) PROHIBITION ON IMPOSITION OF FEES RELAT-
22 ING TO NATURALIZATION.—Notwithstanding any other
23 provision of law, no fee shall be charged or collected from
24 an applicant under this section for filing an application
25 for naturalization or for the issuance of a certificate of

1 naturalization upon citizenship being granted to the appli-
2 cant, and no clerk of any State court shall charge or col-
3 lect any fee for such services unless the laws of the State
4 require such charge to be made, in which case nothing
5 more than the portion of the fee required to be paid to
6 the State shall be charged or collected.

7 (d) **NATURALIZATION PROCEEDINGS OVERSEAS FOR**
8 **MEMBERS OF THE ARMED FORCES.**—Notwithstanding
9 any other provision of law, the Secretary of Homeland Se-
10 curity, the Secretary of State, and the Secretary of De-
11 fense shall ensure that any applications, interviews, filings,
12 oaths, ceremonies, or other proceedings under this section
13 are available through United States embassies, consulates,
14 and as practicable, United States military installations
15 overseas.

16 **SEC. 3. EXTENSION OF POSTHUMOUS BENEFITS TO SUR-**
17 **VIVING SPOUSES, CHILDREN, AND PARENTS.**

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

19 (1) **SPOUSES.**—Notwithstanding the second
20 sentence of section 201(b)(2)(A)(i) of the Immigra-
21 tion and Nationality Act (8 U.S.C.
22 1151(b)(2)(A)(i)), in the case of an alien who was
23 the spouse of a citizen of the United States at the
24 time of the citizen's death and was not legally sepa-
25 rated from the citizen at the time of the citizen's

1 death, if the citizen served honorably for any period
2 of time in the Army, Navy, Air Force, Marine Corps
3 (including reserve components), or in the Coast
4 Guard or Coast Guard Reserve, in a combat zone
5 designated in connection with Operation Iraqi Free-
6 dom and died as a result of injury or disease in-
7 curred in or aggravated by that service, the alien
8 (and each child of the alien) shall be considered, for
9 purposes of section 201(b) of such Act, to remain an
10 immediate relative after the date of the citizen's
11 death, but only if the alien files a petition under sec-
12 tion 204(a)(1)(A)(ii) of such Act within 2 years
13 after such date and only until the date the alien re-
14 marries. 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 for any period of time
24 in the Army, Navy, Air Force, Marine Corps
25 (including reserve components), or in the Coast

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

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

22 (3) PARENTS.—

23 (A) IN GENERAL.—In the case of an alien
24 who was the parent of a citizen of the United
25 States at the time of the citizen's death, if the

1 citizen served honorably for any period of time
2 in the Army, Navy, Air Force, Marine Corps
3 (including reserve components), or in the Coast
4 Guard or Coast Guard Reserve, in a combat
5 zone designated in connection with Operation
6 Iraqi Freedom and died as a result of injury or
7 disease incurred in or aggravated by that serv-
8 ice, the alien shall be considered, for purposes
9 of section 201(b) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1151(b)), to remain an
11 immediate relative after the date of the citizen's
12 death (regardless of changes in age or marital
13 status thereafter), but only if the alien files a
14 petition under subparagraph (B) within 2 years
15 after such date.

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

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

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

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

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

20 (A) served honorably for any period of
21 time in the Army, Navy, Air Force, Marine
22 Corps (including reserve components), or in the
23 Coast Guard or Coast Guard Reserve, in a com-
24 bat zone designated in connection with Oper-
25 ation Iraqi Freedom;

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

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

6 (c) SPOUSES AND CHILDREN OF LAWFUL PERMA-
7 NENT RESIDENT ALIENS.—

8 (1) TREATMENT AS IMMEDIATE RELATIVES.—

9 (A) IN GENERAL.—A spouse or child of an
10 alien described in paragraph (3) who is included
11 in a petition for classification as a family-spon-
12 sored immigrant under section 203(a)(2) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1153(a)(2)) that was filed by such alien, shall
15 be considered (if the spouse or child has not
16 been admitted or approved for lawful perma-
17 nent residence by such date) a valid petitioner
18 for immediate relative status under section
19 201(b)(2)(A)(i) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such
21 spouse or child shall be eligible for deferred ac-
22 tion, advance parole, and work authorization.

23 (B) PETITIONS.—An alien spouse or child
24 described in subparagraph (A) may file a peti-
25 tion with the Secretary of Homeland Security

1 for classification of the alien under section
2 201(b)(2)(A)(i) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1151(b)(2)(A)(i)). For pur-
4 poses of such Act, such a petition shall be con-
5 sidered a petition filed under section
6 204(a)(1)(A) of such Act (8 U.S.C.
7 1154(a)(1)(A)).

8 (2) SELF-PETITIONS.—Any spouse or child of
9 an alien described in paragraph (3) who is not a
10 beneficiary of a petition for classification as a fam-
11 ily-sponsored immigrant may file a petition for such
12 classification under section 201(b)(2)(A)(i) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1151(b)(2)(A)(i)) with the Secretary of Homeland
15 Security, but only if the spouse or child files a peti-
16 tion within 2 years after such date. Such spouse or
17 child shall be eligible for deferred action, advance
18 parole, and work authorization.

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

21 (A) served honorably for any period of
22 time in the Army, Navy, Air Force, Marine
23 Corps (including reserve components), or in the
24 Coast Guard or Coast Guard Reserve, in a com-

1 bat zone designated in connection with Oper-
2 ation Iraqi Freedom;

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

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

8 (d) PARENTS OF LAWFUL PERMANENT RESIDENT
9 ALIENS.—

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

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

23 (A) served honorably for any period of
24 time in the Army, Navy, Air Force, Marine
25 Corps (including reserve components), or in the

1 Coast Guard or Coast Guard Reserve, in a com-
2 bat zone designated in connection with Oper-
3 ation Iraqi Freedom;

4 (B) died as a result of injury or disease in-
5 curred in or aggravated by that service; 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
10 subsections (a) and (c) of section 245 of the Immigration
11 and 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 Sec-
16 retary of Homeland Security for adjustment of status to
17 that of 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 grounds for inadmissibility specified in paragraphs (4),
22 (6), (7), and (9) of section 212(a) of the Immigration and
23 Nationality Act (8 U.S.C. 1182(a)) shall not apply.

24 (g) INAPPLICABILITY OF PROHIBITION ON BENEFITS
25 TO SURVIVORS.—Section 329A(e) of the Immigration and

1 Nationality Act (8 U.S.C. 1440–1) shall not apply to the
2 benefits granted under this Act to relatives of a person
3 granted posthumous citizenship by reason of service in the
4 Army, Navy, Air Force, Marine Corps (including reserve
5 components), or in the Coast Guard or Coast Guard Re-
6 serve, in a combat zone designated in connection with Op-
7 eration Iraqi Freedom.

8 (h) NATURALIZATION OF SURVIVORS.—Any person
9 who is the surviving spouse, child, or parent of a United
10 States citizen, whose citizen spouse, parent, or child dies
11 during a period of honorable service in the Army, Navy,
12 Air Force, Marine Corps (including reserve components),
13 or in the Coast Guard or Coast Guard Reserve, in a com-
14 bat zone designated in connection with Operation Iraqi
15 Freedom, and who, in the case of a surviving spouse, was
16 living in marital union with the citizen spouse at the time
17 of death, may be naturalized upon compliance with all the
18 requirements of title III of the Immigration and Nation-
19 ality Act (8 U.S.C. 1401 et seq.) except that no prior resi-
20 dence or specified physical presence within the United
21 States, or within a State or a district of the Service in
22 the United States shall be required.

23 **SEC. 4. PRIORITY FOR NATURALIZATION APPLICATIONS.**

24 In processing applications for naturalization, the Sec-
25 retary of Homeland Security shall give priority to—

1 (1) applications filed under section 2 of this
2 Act; and

3 (2) applications filed under title III of the Im-
4 migration and Nationality Act (8 U.S.C. 1401 et
5 seq.) for naturalization of a parent, spouse, or child
6 of a person who has served honorably in the Army,
7 Navy, Air Force, Marine Corps (including reserve
8 components), or in the Coast Guard or Coast Guard
9 Reserve, in a combat zone designated in connection
10 with Operation Iraqi Freedom.

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