

110TH CONGRESS
2D SESSION

S. 3453

To authorize the adjustment of status for immediate family members of aliens who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2008

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize the adjustment of status for immediate family members of aliens who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts.

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. PERMANENT RESIDENT STATUS FOR IMME-**
4 **DIATE FAMILY MEMBERS OF ACTIVE DUTY**
5 **MILITARY SERVICE PERSONNEL.**

6 (a) IN GENERAL.—The Secretary of Homeland Secu-
7 rity or the Attorney General may adjust the status of an

1 alien described in subsection (b) to that of an alien law-
2 fully admitted for permanent residence if the alien—

3 (1) applies for such adjustment;

4 (2) is admissible to the United States as an im-
5 migrant, except as provided in subsection (d);

6 (3) pays a fee in an amount determined by the
7 Secretary for the processing of such application (un-
8 less such fee is waived by the Secretary); and

9 (4) is physically present in the United States.

10 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
11 TUS.—The benefits provided under subsection (a) shall
12 only apply to an alien who is—

13 (1) a parent, spouse, child, son or daughter
14 (and their spouse, child, son, or daughter, if any)
15 of—

16 (A) a living Armed Forces member de-
17 scribed in subsection (c); or

18 (B) a deceased Armed Forces member de-
19 scribed in subsection (c) if—

20 (i) the Armed Forces member died as
21 a result of injury or disease incurred in or
22 aggravated by his or her service; and

23 (ii) the alien applies for such adjust-
24 ment not later than 2 years after the death
25 of the Armed Forces member; or

1 (2) a son or daughter described in paragraph
2 (1) or (3) of section 203(a) of the Immigration and
3 Nationality Act (8 U.S.C. 1153(a)) who has a Fili-
4 pino parent who was naturalized pursuant to section
5 405 of the Immigration Act of 1990 (8 U.S.C. 1440
6 note).

7 (c) ARMED FORCES MEMBER DEFINED.—In this sec-
8 tion, the term “Armed Forces member” means any person
9 who—

10 (1) is, or was at the time of the person’s death
11 described in subsection (b)(1)(B), a United States
12 citizen or lawful permanent resident;

13 (2) is serving, or has served honorably on or
14 after October 7, 2001, as a member of the National
15 Guard or the Selected Reserve of the Ready Reserve,
16 or in an active-duty status in the military, air, or
17 naval forces of the United States; and

18 (3) if separated from the service described in
19 paragraph (2), was separated under honorable condi-
20 tions.

21 (d) WAIVER OF CERTAIN GROUNDS OF INADMISS-
22 SIBILITY.—

23 (1) IN GENERAL.—The provisions of para-
24 graphs (4), (5), (6)(A), (7)(A), and (9)(B) of section
25 212(a) of the Immigration and Nationality Act (8

1 U.S.C. 1182(a)) shall not apply to adjustment of
2 status under this Act.

3 (2) ADDITIONAL WAIVERS.—The Secretary of
4 Homeland Security or the Attorney General may
5 waive any other provision of section 212(a) of such
6 Act (other than paragraph (2)(C) and subpara-
7 graphs (A), (B), (C), (E), and (F) of paragraph (3))
8 with respect to an adjustment of status under this
9 Act—

10 (A) for humanitarian purposes;

11 (B) to assure family unity; or

12 (C) if such waiver is otherwise in the pub-
13 lic interest.

14 (e) DATE OF APPROVAL.—Upon the approval of an
15 application for adjustment of status under this Act, the
16 Secretary of Homeland Security shall create a record of
17 the alien's admission as a lawful permanent resident.

18 (f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

19 (1) IN GENERAL.—If an alien is granted lawful
20 permanent resident status under this Act, the Sec-
21 retary of State shall not reduce the number of immi-
22 grant visas authorized to be issued under the Immi-
23 gration and Nationality Act (8 U.S.C. 1101 et seq.).

24 (2) EXEMPTION FROM DIRECT NUMERICAL LIM-
25 ITATIONS.—Section 201(b)(1) of the Immigration

1 and Nationality Act (8 U.S.C. 1151(b)(1)) is
2 amended by adding at the end the following:

3 “(F) Aliens who are described in paragraph (1)
4 or (3) of section 203(a) and have a Filipino parent
5 who was naturalized pursuant to section 405 of the
6 Immigration Act of 1990 (8 U.S.C. 1440 note).”.

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