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1ST SESSION

H. R. 1954

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on the Judiciary

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Armed Forces Natu-
3 ralization Act of 2003”.

4 **SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED**
5 **FORCES.**

6 (a) REDUCTION OF PERIOD FOR REQUIRED SERV-
7 ICE.—

8 (1) IN GENERAL.—Section 328(a) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1439(a)) is
10 amended by striking “three years,” and inserting
11 “one year,”.

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

16 (b) PROHIBITION ON IMPOSITION OF FEES RELAT-
17 ING TO NATURALIZATION.—

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

21 (A) in section 328(b)—

22 (i) in paragraph (3)—

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

25 (II) by striking “discharge.” and
26 inserting “discharge); and”;

1 (ii) by adding at the end the fol-
2 lowing:

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

13 (B) in section 329(b)—

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

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

19 (iii) by adding at the end the fol-
20 lowing:

21 “(4) notwithstanding any other provision of
22 law, no fee shall be charged or collected from the
23 person for filing the application, or for the issuance
24 of a certificate of naturalization upon being granted
25 citizenship, and no clerk of any State court shall

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

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

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

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

19 (A) by adding at the end of section 328
20 the following:

21 “(f) Citizenship granted pursuant to this section may
22 be revoked in accordance with section 340 if the person
23 is separated from the Armed Forces under other than hon-
24 orable conditions before the person has served honorably
25 for a period or periods aggregating five years. Such

1 ground for revocation shall be in addition to any other
2 provided by law, including the grounds described in section
3 340. The fact that the naturalized person was separated
4 from the service under other than honorable conditions
5 shall be proved by a duly authenticated certification from
6 the executive department under which the person was
7 serving at the time of separation. Any period or periods
8 of service shall be proved by duly authenticated copies of
9 the records of the executive departments having custody
10 of the records of such service.”; and

11 (B) by amending section 329(c) to read as
12 follows:

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

1 the records of the executive departments having custody
2 of the records of such service.”.

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

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

17 (e) TECHNICAL AMENDMENT.—

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

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall take effect as if enacted on
24 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 (c), 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 sserting “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.

Passed the House of Representatives June 4, 2003.

Attest:

JEFF TRANDAHL,

Clerk.