

110TH CONGRESS
2D SESSION

H. R. 6020

To amend the Immigration and Nationality Act to protect the well-being of soldiers and their families, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2008

Ms. ZOE LOFGREN of California (for herself, Mr. THORNBERRY, Mr. CONYERS, Mr. PENCE, Ms. LORETTA SANCHEZ of California, Mr. TURNER, and Mr. REYES) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to protect the well-being of soldiers and their families, 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. FACILITATING NATURALIZATION FOR MILI-**
4 **TARY PERSONNEL.**

5 (a) IN GENERAL.—Any person who served honorably
6 as a member of the Armed Forces in support of contin-
7 gency operations (as defined in section 101(a)(13) of title
8 10, United States Code) shall be eligible for naturalization
9 pursuant to section 329 of the Immigration and Nation-

1 ality Act (8 U.S.C. 1440) as if the person had served dur-
2 ing a period designated by the President under such sec-
3 tion 329.

4 (b) NATURALIZATION THROUGH SERVICE IN THE
5 ARMED FORCES OF THE UNITED STATES.—Section 328
6 of the Immigration and Nationality Act (8 U.S.C. 1439)
7 is amended—

8 (1) in subsection (a), by striking “six months”
9 and inserting “one year”;

10 (2) by striking subsection (c);

11 (3) in subsection (d), by striking “six months”
12 and inserting “one year”; and

13 (4) by redesignating subsections (d), (e), and
14 (f) as subsections (c), (d), and (e), respectively.

15 **SEC. 2. FACILITATING REMOVAL OF CONDITIONAL STATUS**
16 **FOR MILITARY PERSONNEL AND THEIR FAMI-**
17 **LIES.**

18 (a) CONDITIONAL BASIS FOR STATUS.—Section
19 216(a)(1) of the Immigration and Nationality Act (8
20 U.S.C. 1186a(a)(1)) is amended by adding before the pe-
21 riod at the end “, unless he or she has served honorably
22 in the Armed Forces of the United States for at least one
23 year, and who, if separated from such service, was never
24 separated except under honorable conditions, or is serving

1 in the Armed Forces at the time of filing for removal of
2 conditional basis”.

3 (b) REQUIREMENTS OF TIMELY PETITION AND
4 INTERVIEW FOR REMOVAL OF CONDITION.—Section
5 216(c)(1)(B) of the Immigration and Nationality Act (8
6 U.S.C. 1186a(a)(1)) is amended by inserting “or serving
7 in the Armed Forces at the time of the interview” after
8 “deceased”.

9 **SEC. 3. FACTORS TO CONSIDER IN INITIATING REMOVAL**
10 **PROCEEDINGS AGAINST ACTIVE DUTY MILI-**
11 **TARY PERSONNEL OR VETERANS.**

12 Section 239 of the Immigration and Nationality Act
13 (8 U.S.C. 1229a) is amended by adding at the end the
14 following:

15 “(f)(1) A notice to appear shall not be issued against
16 an alien who served honorably at any time in the Armed
17 Forces of the United States, and who, if separated from
18 such service, separated under honorable conditions, with-
19 out prior approval from the Director of the United States
20 Citizenship and Immigration Services or the Assistant
21 Secretary of Homeland Security for U.S. Immigration and
22 Customs Enforcement.

23 “(2) In determining whether to issue a notice to ap-
24 pear against such an alien, the Director or the Assistant
25 Secretary shall consider the alien’s eligibility for natu-

1 ralization under section 328 or 329, as well as the alien's
 2 record of military service, grounds of deportability applica-
 3 ble to the alien, and any hardship to the Armed Services,
 4 the alien, and his or her family if the alien were to be
 5 placed in removal proceedings.

6 “(3) An alien who served honorably at any time in
 7 the Armed Forces of the United States, and who, if sepa-
 8 rated from such service, separated under honorable condi-
 9 tions, shall not be removed from the United States under
 10 subparagraph (A)(i) or (B)(iii) of section 235(b)(1), sec-
 11 tion 238, or section 241(a)(5).”.

12 **SEC. 4. DISCRETIONARY RELIEF FOR ACTIVE DUTY MILI-**
 13 **TARY PERSONNEL, VETERANS, AND FAMILY**
 14 **MEMBERS IN REMOVAL PROCEEDINGS.**

15 (a) GROUND OF INADMISSIBILITY.—Section 212 of
 16 the Immigration and Nationality Act (8 U.S.C. 1182) is
 17 amended by inserting after subsection (b) the following:

18 “(c) MILITARY SERVICE PERSONNEL AND FAMILY
 19 MEMBERS.—

20 “(1) IN GENERAL.—With respect to an alien
 21 who served honorably at any time in the Armed
 22 Forces of the United States, and who, if separated
 23 from such service, separated under honorable condi-
 24 tions, or an alien who is the spouse, child, son,

1 daughter, parent, or minor sibling of a member serv-
2 ing in the Armed Forces of the United States—

3 “(A) paragraphs (4), (5), (6)(A), (7)(A),
4 and (9)(B) of subsection (a) shall not apply;
5 and

6 “(B) the Secretary of Homeland Security,
7 or the Attorney General, may waive any other
8 provision of subsection (a) (other than para-
9 graph (2)(C) and subparagraphs (A), (B), (C),
10 (E), or (F) of paragraph (3)).

11 “(2) WAIVER FACTORS.—In making a deter-
12 mination under paragraph (1)(B), the following fac-
13 tors may be considered:

14 “(A) The grounds of inadmissibility appli-
15 cable to the alien.

16 “(B) The alien’s service in the United
17 States military, or the degree to which the
18 alien’s removal would affect a close family
19 member who is serving or has served in the
20 Armed Forces.

21 “(C) The length of time the alien has lived
22 in the United States.

23 “(D) The degree to which the alien would
24 be impacted by his or her removal from the
25 United States.

1 “(E) The existence of close family ties
2 within the United States.

3 “(F) The degree to which the alien’s re-
4 moval would adversely affect the alien’s United
5 States citizen, or lawful permanent resident,
6 parents, spouses, children, sons, daughters, or
7 siblings.

8 “(G) The alien’s history of employment in
9 the United States, including whether the alien
10 has been self-employed or has owned a business.

11 “(H) The degree to which the alien’s re-
12 moval would adversely affect the alien’s United
13 States employer or business.

14 “(I) The degree to which the alien has ties
15 to the alien’s community in the United States
16 or has contributed to the Nation through com-
17 munity, volunteer, or other activities.”.

18 (b) GROUNDS OF DEPORTABILITY.—Section 237 of
19 the Immigration and Nationality Act (8 U.S.C. 1227) is
20 amended by adding at the end the following:

21 “(d) MILITARY SERVICE PERSONNEL AND FAMILY
22 MEMBERS.—

23 “(1) IN GENERAL.—With respect to an alien
24 who served honorably at any time in the Armed
25 Forces of the United States, and who, if separated

1 from such service, separated under honorable condi-
2 tions, or an alien who is the spouse, child, son,
3 daughter, parent, or minor sibling of a member serv-
4 ing in the Armed Forces of the United States—

5 “(A) paragraphs (1)(D), (3)(A), and (5) of
6 subsection (a) shall not apply; and

7 “(B) the Secretary of Homeland Security,
8 or the Attorney General, may waive paragraphs
9 (1) (other than subparagraph (D)), (2), (3)
10 (other than subparagraph (A)), and (6) of sub-
11 section (a).

12 “(2) WAIVER FACTORS.—In making a deter-
13 mination under paragraph (1)(B), the following fac-
14 tors may be considered:

15 “(A) The grounds of deportability applica-
16 ble to the alien.

17 “(B) The alien’s service in the United
18 States military, or the degree to which the
19 alien’s removal would affect a close family
20 member who is serving or has served in the
21 Armed Forces.

22 “(C) The length of time the alien has lived
23 in the United States.

1 “(D) The degree to which the alien would
2 be impacted by his or her removal from the
3 United States.

4 “(E) The existence of close family ties
5 within the United States.

6 “(F) The degree to which the alien’s re-
7 moval would adversely affect the alien’s United
8 States citizen, or lawful permanent resident,
9 parents, spouses, children, sons, daughters, or
10 siblings.

11 “(G) The alien’s history of employment in
12 the United States, including whether the alien
13 has been self-employed or has owned a business.

14 “(H) The degree to which the alien’s re-
15 moval would adversely affect the aliens United
16 States employer or business.

17 “(I) The degree to which the alien has ties
18 to the alien’s community in the United States
19 or has contributed to the Nation through com-
20 munity, volunteer, or other activities.”.

21 **SEC. 5. TIMELY REUNIFICATION OF MILITARY PERSONNEL**
22 **AND THEIR NUCLEAR FAMILIES.**

23 Section 201(b)(1) of the Immigration and Nationality
24 Act (8 U.S.C. 1151(b)(1)) is amended by adding at the
25 end the following:

1 “(F) Aliens who are eligible for an immigrant
2 visa under paragraph (2)(A) of section 203(a) and
3 are either the spouse or child of an alien who is serv-
4 ing in the Armed Forces of the United States.”.

5 **SEC. 6. RELIEF FOR IMMEDIATE FAMILY MEMBERS OF AC-**
6 **TIVE DUTY PERSONNEL.**

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity shall adjust the status of an alien described in sub-
9 section (b) to that of an alien lawfully admitted for perma-
10 nent residence if the alien—

11 (1) applies for such adjustment, and is phys-
12 ically present in the United States on the date the
13 application is filed;

14 (2) is admissible to the United States as an im-
15 migrant, except as provided in subsection (e); and

16 (3) pays a fee, as determined by the Secretary,
17 for the processing of such application.

18 (b) ELIGIBLE ALIENS.—

19 (1) IN GENERAL.—The benefits provided in
20 subsection (a) shall apply only to an alien who is a
21 parent, spouse, child, son or daughter, or minor sib-
22 ling of an eligible member of the Armed Forces, as
23 defined in subsection (c).

24 (2) POSTHUMOUS BENEFITS.—An alien de-
25 scribed in paragraph (1) shall continue to be eligible

1 for adjustment under this section for 2 years after
2 the death of an eligible member of the Armed Forces
3 whose death was the result of injury or disease in-
4 curred in or aggravated by his or her service in the
5 Armed Forces.

6 (c) ELIGIBLE MEMBERS OF THE ARMED FORCES.—

7 In this section, “eligible member of the Armed Forces”
8 shall include—

9 (1) a United States citizen who is serving or
10 has served honorably as a member of the Selected
11 Reserve of the Ready Reserve or in an active-duty
12 status in the military, air, or naval forces of the
13 United States during either World War I or during
14 a period beginning September 1, 1939, and ending
15 December 31, 1946, or during a period beginning
16 June 25, 1950, and ending July 1, 1955, or during
17 a period beginning February 28, 1961, and ending
18 on a date designated by the President by Executive
19 order as of the date of termination of the Vietnam
20 hostilities, or thereafter during any other period
21 which the President by Executive order shall des-
22 ignate as a period in which Armed Forces of the
23 United States are or were engaged in military oper-
24 ations involving armed conflict with a hostile foreign

1 force, and who, if separated from such service, was
2 separated under honorable conditions; or

3 (2) any person who is eligible for naturalization
4 through active duty service in the Armed Forces
5 pursuant to section 329 of the Immigration and Na-
6 tionality Act.

7 (d) WAIVER OF CERTAIN GROUNDS OF INADMIS-
8 SIBILITY.—The provisions of paragraphs (4), (5), (6)(A),
9 (7)(A), and (9)(B) of section 212(a) of the Immigration
10 and Nationality Act (8 U.S.C. 1182(a)) shall not apply
11 to adjustment of status under this section. With respect
12 to such an adjustment of status, the Secretary of Home-
13 land Security may waive any other provision of such sec-
14 tion 212(a) (other than paragraph (2)(C) and subpara-
15 graphs (A), (B), (C), (E), or (F) of paragraph (3)) for
16 humanitarian purposes, to assure family unity, or when
17 it is otherwise in the public interest.

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