

112TH CONGRESS  
1ST SESSION

# H. R. 3761

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2011

Mr. THOMPSON of California (for himself, Ms. ZOE LOFGREN of California, Mr. REYES, Mr. CONYERS, Mr. BERMAN, Mr. GUTIERREZ, Mr. GRIJALVA, Mr. FILNER, Mrs. NAPOLITANO, Ms. LINDA T. SÁNCHEZ of California, Mr. HONDA, Ms. ROYBAL-ALLARD, and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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. SHORT TITLE.**

4 This Act may be cited as the “Support and Defend  
5 Our Military Personnel and Their Families Act”.

1 **SEC. 2. FACILITATING NATURALIZATION FOR MILITARY**  
2 **PERSONNEL.**

3 (a) IN GENERAL.—Any person who has served honor-  
4 ably as a member of the Armed Forces of the United  
5 States in support of a contingency operation (as defined  
6 in section 101(a)(13) of title 10, United States Code), and  
7 who, if separated from the Armed Forces, was separated  
8 under honorable conditions, may be naturalized as pro-  
9 vided in section 329 of the Immigration and Nationality  
10 Act (8 U.S.C. 1440) as though the person had served dur-  
11 ing a period designated by the President under such sec-  
12 tion.

13 (b) NATURALIZATION THROUGH SERVICE IN THE  
14 ARMED FORCES OF THE UNITED STATES.—Section 328  
15 of the Immigration and Nationality Act (8 U.S.C. 1439)  
16 is amended—

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

19 (2) in subsection (d), by striking “six months”  
20 and inserting “one year”.

21 **SEC. 3. 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 immi-  
 2           grant visa under paragraph (2) of section  
 3           203(a) and are the spouse, child, son, or daugh-  
 4           ter of an alien who is serving in the Armed  
 5           Forces of the United States.”.

6 **SEC. 4. RELIEF FOR IMMEDIATE FAMILY MEMBERS OF AC-**  
 7 **TIVE DUTY PERSONNEL.**

8           Section 245 of the Immigration and Nationality Act  
 9           (8 U.S.C. 1255) is amended by adding at the end the fol-  
 10          lowing:

11          “(n) RELIEF FOR IMMEDIATE FAMILY MEMBERS OF  
 12          ACTIVE DUTY PERSONNEL.—

13               “(1) IN GENERAL.—The Secretary of Homeland  
 14          Security may adjust the status of an alien described  
 15          in paragraph (2) to that of an alien lawfully admit-  
 16          ted for permanent residence if—

17                       “(A) the alien makes an application for  
 18                       such adjustment, and is physically present in  
 19                       the United States on the date the application is  
 20                       filed;

21                       “(B) the alien is eligible to receive an im-  
 22                       migrant visa and is admissible under section  
 23                       212(a) (except that paragraphs (4), (6)(A),  
 24                       (7)(A), and (9)(B) of such section shall not  
 25                       apply for purposes of this subsection);

1           “(C) an immigrant visa is immediately  
2 available to the alien at the time the application  
3 is filed; and

4           “(D) the alien pays a fee, as determined by  
5 the Secretary, for the processing of such appli-  
6 cation.

7           “(2) ELIGIBLE ALIENS.—

8           “(A) IN GENERAL.—The benefits provided  
9 in paragraph (1) shall apply only to an alien  
10 who is a parent, spouse, child, son, daughter, or  
11 minor sibling of an eligible member of the  
12 Armed Forces.

13           “(B) POSTHUMOUS BENEFITS.—An alien  
14 described in subparagraph (A) shall continue to  
15 be eligible for adjustment under this subsection  
16 for 2 years after the death of an eligible mem-  
17 ber of the Armed Forces whose death was the  
18 result of injury or disease incurred in or aggra-  
19 vated by his or her service in the Armed Forces  
20 or, if such death occurred prior to the date of  
21 enactment of this paragraph, for 2 years after  
22 such date of enactment.

23           “(3) ELIGIBLE MEMBERS OF THE ARMED  
24 FORCES.—In this subsection, ‘eligible member of the  
25 Armed Forces’ means any person who—

1           “(A) has served honorably in an active  
2           duty status in the Armed Forces of the United  
3           States; and

4           “(B) if separated from the service de-  
5           scribed in subparagraph (A), was separated  
6           under honorable conditions.”.

7   **SEC. 5. MILITARY ENLISTMENT DURING MILITARY OPER-**  
8           **ATIONS AND NATIONAL EMERGENCIES.**

9           Section 504(b)(1) of title 10, United States Code, is  
10          amended by adding at the end the following:

11           “(D) An alien who, during any period of  
12           contingency operations (as defined in section  
13           101(a)(13) of title 10, United States Code),  
14           takes the following oath: ‘I,  
15           \_\_\_\_\_, do solemnly swear (or  
16           affirm), that (i) I am loyal to and will defend  
17           the United States of America and bear true  
18           faith and allegiance to the same; (ii) I support  
19           and will defend the Constitution and the laws  
20           of the United States against all enemies, for-  
21           eign and domestic; and (iii) I intend to re-  
22           nounce entirely all allegiance to any other na-  
23           tion and promptly seek naturalization as pro-  
24           vided under law as soon as I am permitted to  
25           do so.’”.

1 **SEC. 6. FACTORS TO CONSIDER IN INITIATING REMOVAL**  
2 **PROCEEDINGS AGAINST ACTIVE DUTY MILI-**  
3 **TARY PERSONNEL AND VETERANS.**

4 Section 239 of the Immigration and Nationality Act  
5 (8 U.S.C. 1229) is amended by adding at the end the fol-  
6 lowing:

7 “(f) CONSIDERATIONS FOR ACTIVE DUTY MILITARY  
8 PERSONNEL AND VETERANS.—(1) A notice to appear  
9 shall not be issued against an alien who has served honor-  
10 ably at any time in the Armed Forces of the United  
11 States, and who, if separated from the Armed Forces, sep-  
12 arated under honorable conditions, without prior approval  
13 from the Secretary of Homeland Security.

14 “(2) In determining whether to issue a notice to ap-  
15 pear against such an alien, the Secretary shall consider  
16 the alien’s eligibility for naturalization under section 328  
17 or 329, as well as the alien’s record of military service,  
18 grounds of deportability applicable to the alien, and any  
19 hardship to the Armed Forces, the alien, and his or her  
20 family if the alien were to be placed in removal pro-  
21 ceedings.

22 “(3) An alien who has served honorably in the Armed  
23 Forces of the United States, and who, if separated from  
24 the Armed Forces, separated under honorable conditions,  
25 shall not be removed from the United States under sub-

1 paragraph (A)(i) or (B)(iii) of section 235(b)(1), section  
2 238, or section 241(a)(5).”.

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