

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 11, 2023

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 23-0002-S80
Assignment No. 23-08-0414

SUBJECT: Resolution (Rodriguez – De Leon) to SUPPORT H.R.4569 (Takano)

CLA RECOMMENDATION: Adopt Resolution (Rodriguez – De Leon) to include in the City's 2023-2024 Federal Legislative Program, SUPPORT for H.R. 4569 (Takano) to improve benefits for noncitizen members of the U.S. Armed Forces.

SUMMARY

Resolution (Rodriguez – De Leon), introduced on August 4, 2023, advises that there are approximately 45,000 noncitizen service members currently serving in the U.S. Armed Forces. The Resolution further reports that many noncitizen veterans are removed from the U.S. before they are naturalized as U.S. citizens, often for crimes stemming from trauma that occurred during their service in the U.S. Armed Forces. Currently pending before the House of Representatives is H.R. 4569 (Takano), which would allow noncitizen service members to apply for naturalization during basic training, establish a review process for service members who are in removal proceedings, and provide an opportunity for deported noncitizen veterans to obtain legal permanent resident status in the U.S.

BACKGROUND

Foreign-born, legal permanent residents of the U.S. have been eligible to enlist in the U.S. Armed Forces since the Revolutionary War, and have fought in every major conflict in American history. Particularly in times of recruitment shortages, noncitizen service members with in-demand qualifications and skills can make valuable contributions in areas such as critical languages, health care, and cybersecurity.

Immigrants have been encouraged to serve in the U.S. Armed Forces with the promise of expedited avenues for naturalization. From 1919 to 2019, more than 760,000 noncitizens enlisted and obtained U.S. citizenship through their military service. Congress first expedited the naturalization of noncitizens serving in the military during the War of 1812 and passed a law in 1813 to allow noncitizens to become U.S. citizens immediately upon entering military service if they declared in intent to naturalize. Similar laws reemerged during the Civil War, World War I, and World War II.

Expedited processes for naturalization for noncitizen service members were finally codified into law through the 1952 Immigration and Nationality Act (INA). Section 328 of the INA states that during peacetime, noncitizens can apply to become U.S. citizens after serving in the military for one year. In times of war or national crisis, Section 329 of the INA allows noncitizens to naturalize immediately upon enlisting. Both sections also waive some other naturalization requirements, such as the minimum, physical presence in the country and the minimum length of residence in the state from which the noncitizen is applying.

Although the INA allows noncitizen service members to acquire citizenship, some veterans may not apply or may not satisfy all eligibility criteria. If the U.S. Department of Homeland Security (DHS) determines that a noncitizen veteran is potentially removeable, the veteran may be subject to administrative immigration enforcement and removal. U.S. Immigration and Customs Enforcement (ICE), the enforcement agency of DHS, is responsible for identifying and removing nonresidents from the U.S. who violate U.S. immigration law.

In 2016 and 2017, the U.S. military narrowed recruitment opportunities for noncitizen service members based on national security concerns. These efforts, in conjunction with increased immigration enforcement and expedited removals by the Trump administration, resulted in the removal orders for hundreds of service members with violent and nonviolent criminal histories. From 2013 to 2018, ICE issued approximately 250 removal orders for veterans and deported 92 veterans, although advocates claim that actual numbers of deported service members are much higher. Of the 92 deported veterans, 68 veterans were removed because of at least one aggravated felony conviction, while the remaining 19 were removed for non-aggravated felony convictions. Nine veterans had service-connected disabilities, including post-traumatic stress disorder and 32 veterans had drug-related convictions.

An “aggravated felony” is a term used to describe a category of offenses carrying particularly harsh immigration consequences for noncitizens convicted of such crimes. Regardless of their immigration status, noncitizens who have been convicted of an “aggravated felony” are prohibited from receiving most forms of relief that would spare them from deportation, including asylum and lawful reentry to the U.S. at any time in the future. An “aggravated felony” does not require the crime to be “aggravated” nor a “felony” to qualify. Instead, an “aggravated felony” is an offense that Congress sees fit to label as such, and today includes many nonviolent and seemingly minor offenses. Initially enacted in 1988, the term “aggravated felony” referred only to murder, federal drug trafficking, and illicit trafficking of certain firearms and destructive devices. Congress has since expanded the definition of “aggravated felony” to now cover more than thirty types of offenses, including simple battery, theft, filing a false tax return, and failing to appear in court.

Many of the deportations of veterans, especially those based on nonviolent crimes, could have been prevented. In 2015, ICE established a policy to consider prior military service as an indicator of potential U.S. citizenship to prevent the deportation of U.S. citizens. Despite the policy, a 2019 Government Accountability Office investigation reports that ICE did not consider veteran status in 70 percent of veteran deportation cases. As a result, some veterans who were removed may not have received the level of review and approval that ICE has determined is appropriate for cases involving veterans. While ICE expected to learn about an individual’s veteran status during removal interviews, they also admitted that they do not have a policy requiring agents and officers to specifically ask about and document veteran status. Consequently, ICE does not maintain complete electronic data on veterans who have been placed in removal proceedings or removed. Because ICE does not maintain complete electronic data on potentially removable veterans it encounters, ICE does not know exactly how many veterans have been placed in removal proceedings or removed, or if their cases have been handled according to ICE’s policies.

H.R. 4569 would instruct the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs to carry out a joint study on the noncitizen veterans of the Armed Forces who were removed from the U.S. since January 1, 1990. The bill would also require the Secretary of Homeland Security to create a protocol for identifying noncitizen service members and veterans, share their information with ICE, and require ICE to consider their veteran status if removal proceedings are initiated. H.R. 4569 would also establish a Military Family Immigration Advisory Committee and allow noncitizen service members to file an application for naturalization as soon as their first day of service on active duty.

Furthermore, H.R. 4569 would offer deported veterans opportunities for waivers and public interest considerations that could allow for their return to the U.S. and adjustment to legal permanent resident status.

Similar legislation passed the House in the 117th Congress on December 6, 2022.

DEPARTMENTS NOTIFIED

Community Investment for Families Department

BILL STATUS

7/12/23	Referred to the Committees on the Judiciary, Veterans' Affairs, and Armed Services
7/12/23	Introduced


Susan Oh
Analyst

Attachment: Resolution (Rodriguez – De Leon)
H.R. 4569

ATTACHMENT 1

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council; and

WHEREAS, immigrants have served in the U.S. Armed Forces since the Revolutionary War and have fought for the U.S. in every major conflict in American history; and

WHEREAS, immigrant service members contribute valuable skills and experience to the U.S. Armed Forces in areas such as technology, engineering, medicine, foreign languages, and cultural exchange; and

WHEREAS, approximately 45,000 immigrants are actively serving in the U.S. Armed Forces today; and

WHEREAS, many noncitizen veterans have been removed from the U.S. before they can become naturalized as U.S. citizens; and

WHEREAS, many of these removals are due to convictions for crimes stemming from trauma that occurred during the veteran's service in the U.S. Armed Forces; and

WHEREAS, these deportations have resulted in the separation of families and loss of access to benefits that service members and veterans have rightfully earned; and

WHEREAS, currently pending before the House of Representatives is H.R. 4569 (Takano), the 'Veteran Service Recognition Act,' which would allow noncitizen service members to apply for naturalization during basic training, establish a review process for service members who are in removal proceedings, and provide an opportunity for noncitizen veterans who have been removed or ordered removed to obtain legal permanent residence status in the U.S.; and

WHEREAS, H.R. 4569 would provide immigrant service members and veterans a pathway to citizenship, access to Veterans Affairs benefits and services, and recognition for their sacrifices in service of the U.S.;

NOW, THEREFORE, BE IT RESOLVED, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-24 Federal Legislative Program SUPPORT for H.R. 4569 to improve the naturalization process for active duty, immigrant service members, establish a review process for noncitizen veterans, service members, and their families in removal proceedings, and provide an opportunity for deported veterans to obtain legal permanent resident status in the U.S.

PRESENTED BY:

Monica Rodriguez
MONICA RODRIGUEZ
Councilwoman, 7th District

SECONDED BY:

Janet Healy

ORIGINAL

so

118TH CONGRESS
1ST SESSION **H. R. 4569**

To provide benefits for noncitizen members of the Armed Forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2023

Mr. TAKANO (for himself, Ms. LOFGREN, Mr. NAIDLER, Mr. CORREA, Mr. VARGAS, Mr. RUIZ, Ms. SALAZAR, and Mrs. RADEWAGEN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Veterans' Affairs, and 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

A BILL

To provide benefits for noncitizen members of 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Veteran Service Rec-
5 ognition Act of 2023".

1 **SEC. 2. STUDY AND REPORT ON NONCITIZEN VETERANS**
2 **REMOVED FROM THE UNITED STATES.**

3 (a) **STUDY REQUIRED.**—Not later than 1 year after
4 the date of the enactment of this Act, the Secretary of
5 Defense, the Secretary of Homeland Security, and the
6 Secretary of Veterans Affairs shall jointly carry out a
7 study on noncitizen veterans and noncitizen former mem-
8 bers of the Armed Forces who were removed from the
9 United States during the period beginning on January 1,
10 1990, and ending on the date of the enactment of this
11 Act, which shall include the following:

12 (1) The number of noncitizens removed by U.S.
13 Immigration and Customs Enforcement or the Im-
14 migration and Naturalization Service during the pe-
15 riod covered by the report who served in the Armed
16 Forces for an aggregate period of more than 180
17 days.

18 (2) For each noncitizen described in paragraph
19 (1)—

20 (A) the country of nationality or last habit-
21 ual residence of the noncitizen;

22 (B) the total length of time the noncitizen
23 served as a member of the Armed Forces;

24 (C) each ground on which the noncitizen
25 was ordered removed under section 237(a) of
26 the Immigration and Nationality Act (8 U.S.C.

1 1227(a)) or section 212(a) of the Immigration
2 and Nationality Act (8 U.S.C. 1182(a)), as ap-
3 plicable; and

4 (D) whether the noncitizen appealed the
5 removal order to the Board of Immigration Ap-
6 peals.

7 (3) Each of the following enumerations:

8 (A) The number of noncitizens described in
9 paragraph (1) who were discharged or released
10 from service under honorable conditions.

11 (B) The number of noncitizens described
12 in paragraph (1) who were discharged or re-
13 leased from service under other than honorable
14 conditions.

15 (C) The number of noncitizens described in
16 paragraph (1) who were deployed overseas.

17 (D) The number of noncitizens described
18 in paragraph (1) who served on active duty in
19 the Armed Forces in an overseas contingency
20 operation.

21 (E) The number of noncitizens described
22 in paragraph (1) who were awarded decorations
23 or medals.

24 (F) The number of noncitizens described
25 in paragraph (1) who applied for benefits under

1 laws administered by the Secretary of Veterans
2 Affairs.

3 (G) The number of noncitizens described
4 in paragraph (1) who receive benefits described
5 in subparagraph (F).

6 (4) A description of the reasons preventing any
7 of the noncitizens who applied for benefits described
8 in paragraph (3)(F) from receiving such benefits.

9 (b) REPORT.—Not later than 90 days after the date
10 of the completion of the study required under subsection
11 (a), the Secretary of Defense, the Secretary of Homeland
12 Security, and the Secretary of Veterans Affairs shall joint-
13 ly submit a report containing the results of such study
14 to the appropriate congressional committees.

15 **SEC. 3. INFORMATION SYSTEM ON VETERANS SUBJECT TO**
16 **REMOVAL.**

17 (a) ESTABLISHMENT.—Not later than 180 days after
18 the date of the enactment of this Act, the Secretary of
19 Homeland Security shall create—

20 (1) a protocol for identifying noncitizens who
21 are or may be veterans; and

22 (2) a system for maintaining information about
23 noncitizen veterans identified pursuant to the pro-
24 tocol created under paragraph (1) and information

1 provided by the Under Secretary of Defense for Per-
2 sonnel and Readiness under section 4(d).

3 (b) INFORMATION SHARING.—The system shall be
4 shared across all components of the Department of Home-
5 land Security, including Enforcement and Removal Oper-
6 ations, the Office of the Principal Legal Advisor, Home-
7 land Security Investigations, and the Military Family Im-
8 migration Advisory Committee.

9 (c) CONSIDERATION OF VETERAN STATUS.—The
10 Secretary of Homeland Security shall ensure that, in the
11 case of any noncitizen veteran who is potentially remov-
12 able, and in any removal proceeding against such a noncit-
13 izen veteran, information available under this system is
14 taken into consideration, including for purposes of any ad-
15 judication on the immigration status of such veteran.

16 (d) USE OF SYSTEM REQUIRED.—The Secretary of
17 Homeland Security may not initiate removal proceedings
18 against an individual prior to using the system established
19 under subsection (a) to attempt to determine whether the
20 individual is a veteran. If the Secretary of Homeland Se-
21 curity determines that such an individual is or may be a
22 veteran, the Secretary shall notify the Military Family Im-
23 migration Advisory Committee concurrently upon initi-
24 ating removal proceedings against such individual.

1 (e) TRAINING.—Beginning in the first fiscal year that
 2 begins after the Secretary of Homeland Security completes
 3 the requirements under subsection (a), personnel of U.S.
 4 Immigration and Customs Enforcement shall participate,
 5 on an annual basis, in a training on the protocol developed
 6 under this section.

7 **SEC. 4. MILITARY FAMILY IMMIGRATION ADVISORY COM-**
 8 **MITTEE.**

9 (a) ESTABLISHMENT.—Not later than 180 days after
 10 the date of the enactment of this Act, the Secretary of
 11 Homeland Security shall establish an advisory committee,
 12 to be known as the “Military Family Immigration Advi-
 13 sory Committee”, to provide recommendations to the Sec-
 14 retary of Homeland Security on the exercise of discretion
 15 in any case involving removal proceedings for—

- 16 (1) a member of the Armed Forces;
- 17 (2) a veteran; or
- 18 (3) a covered family member.

19 (b) MEMBERSHIP.—The Advisory Committee shall be
 20 composed of 9 members, appointed by the Secretary of
 21 Homeland Security.

22 (c) CASE REVIEWS.—

23 (1) IN GENERAL.—Not later than 30 days after
 24 the Advisory Committee identifies or is notified
 25 about the case of an individual described in sub-

1 section (a), the Advisory Committee shall meet to re-
 2 view the case and to provide a written recommenda-
 3 tion to the Secretary of Homeland Security on
 4 whether—

5 (A) an exercise of discretion is warranted,
 6 including—

7 (i) termination of removal pro-
 8 ceedings;

9 (ii) parole;

10 (iii) deferred action;

11 (iv) a stay of removal;

12 (v) administrative closure; or

13 (vi) authorization to apply for any
 14 other form of relief; or

15 (B) to continue seeking the removal of
 16 such individual.

17 (2) SUBMISSION OF INFORMATION.—An indi-
 18 vidual who is the subject of a case review under
 19 paragraph (1) may submit information to the Advi-
 20 sory Committee, and the Advisory Committee shall
 21 consider such information.

22 (3) PROCEDURES.—In conducting each case re-
 23 view under paragraph (1), the Advisory Committee
 24 shall consider, as factors weighing in favor of a rec-
 25 ommendation under paragraph (1)(A)—

1 (A) with respect to a member of the
2 Armed Forces, whether the individual—

3 (i) was an enlisted member or officer
4 of the Armed Forces;

5 (ii) received a medal or decoration,
6 was deployed, or was otherwise evaluated
7 for merit in service during his or her serv-
8 ice in the Armed Forces;

9 (iii) is a national of a country that
10 prohibits repatriation of an individual after
11 any service in the Armed Forces; or

12 (iv) contributed to his or her local
13 community during his or her service in the
14 Armed Forces;

15 (B) with respect to a veteran, whether the
16 individual—

17 (i) was an enlisted member or officer
18 of the Armed Forces;

19 (ii) completed a period of service in
20 the Armed Forces and was discharged
21 under conditions other than dishonorable;

22 (iii) received a medal or decoration,
23 was deployed, or was otherwise evaluated
24 for merit in service during his or her serv-
25 ice in the Armed Forces;

(iv) is a national of a country that prohibits repatriation of an individual after any service in the Armed Forces of another country; or

(v) contributed to his or her local community during or after his or her service in the Armed Forces; and

(C) with respect to a covered family member, whether the individual—

(i) supported a member of the Armed Forces serving on active duty or a veteran, including through financial support, emotional support, or caregiving; or

(ii) contributed to his or her local community during or after the military service of the member or of the veteran.

(4) PRECLUDING FACTOR.—In conducting each case review under paragraph (1), the Advisory Committee shall consider, as a factor requiring a recommendation under paragraph (1)(B), whether the member of the Armed Forces, veteran, or covered family member has been convicted of 5 offenses for driving while intoxicated (including a conviction under the influence of or impaired by alcohol or drugs), unless the conviction is older than 25 years.

1 (d) BRIEFINGS ON NONCITIZEN VETERANS.—The
2 Under Secretary of Defense for Personnel and Readiness
3 shall provide detailed briefings to the Advisory Committee
4 regarding the service of a noncitizen veteran when that
5 individual's case is being considered by the Advisory Com-
6 mittee.

7 (e) BRIEFINGS ON ACTIONS IN RESPONSE TO REC-
8 OMMENDATIONS.—Not less frequently than quarterly, the
9 Secretary of Homeland Security shall provide detailed
10 briefings to the Advisory Committee regarding actions
11 taken in response to the recommendations of the Advisory
12 Committee, including detailed explanations for any cases
13 in which a recommendation of the Advisory Committee
14 was not followed.

15 (f) TRANSFER OF CASE FILES.—For any individual
16 with respect to whom the Advisory Committee is con-
17 ducting a case review under this section, the Secretary of
18 Defense and Secretary of Homeland Security shall provide
19 to the Advisory Committee a copy of any available record
20 pertaining to that individual, including such individual's
21 alien file, that is relevant to the case review.

22 (g) LIMITATION ON REMOVAL.—Notwithstanding
23 any other provision of law, an individual described in sub-
24 section (a) may not be ordered removed until the Advisory

1 Committee has provided a recommendation with respect
2 to that individual to the Secretary of Homeland Security.

3 (h) LIMITATION ON ELIGIBILITY FOR CASE RE-
4 VIEW.—An individual who is inadmissible based on a con-
5 viction of an aggravated felony described in subparagraph
6 (A) of section 101(a)(43) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1101(a)(43)) shall be ineligible for a
8 case review under this section.

9 **SEC. 5. PROGRAM OF CITIZENSHIP THROUGH MILITARY**
10 **SERVICE.**

11 (a) IN GENERAL.—

12 (1) PROGRAM ESTABLISHED.—The Secretary of
13 Homeland Security, acting through the Director of
14 U.S. Citizenship and Immigration Services, and in
15 coordination with the Secretary of Defense, shall
16 jointly implement a program to ensure that—

17 (A) each eligible noncitizen is afforded the
18 opportunity to file an application for naturaliza-
19 tion at any point on or after the first day of
20 service on active duty or first day of service as
21 a member of the Selected Reserve pursuant to
22 section 329 of the Immigration and Nationality
23 Act (8 U.S.C. 1440); and

24 (B) the duly authenticated certification (or
25 any other successor form) required under sec-

tion 329(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1140(b)(3)) is issued to each noncitizen not later than 30 days after the individual makes a request for such certification.

(2) ELIGIBLE NONCITIZEN.—For purposes of this subsection, the term “eligible noncitizen” means a noncitizen who serves or has served in the Armed Forces of the United States during any period that the President by Executive order designates as a period during which the Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force.

(b) JAG TRAINING.—The Secretary of Defense shall ensure that appropriate members of the Judge Advocate General Corps of each Armed Force receive training to function as liaisons with U.S. Citizenship and Immigration Services with respect to applications for citizenship of non-citizen members of the Armed Forces.

(c) TRAINING FOR RECRUITERS.—The Secretary of Defense shall ensure that all recruiters in the Armed Forces receive training regarding—

(1) the steps required for a noncitizen member of the Armed Forces to receive citizenship;

1 (2) limitations on the path to citizenship for
2 family members of such individuals; and

3 (3) points of contact at the Department of
4 Homeland Security to resolve emergency immigra-
5 tion-related situations with respect to such individ-
6 uals and their family members.

7 (d) ANNUAL REPORTS.—The Secretary of each mili-
8 tary department shall annually submit to the appropriate
9 congressional committees a report on the number of all
10 noncitizens who enlisted or were appointed in the military
11 department concerned, all members of the Armed Forces
12 in their department who naturalized, and all members of
13 the Armed Forces in their department who were dis-
14 charged or released without United States citizenship
15 under the jurisdiction of such Secretary during the pre-
16 ceding year.

17 (e) FURTHER FACILITATION NATURALIZATION FOR
18 MILITARY PERSONNEL IN CONTINGENCY OPERATIONS.—
19 Any person who has served honorably as a member of the
20 Armed Forces of the United States in support of a contin-
21 gency operation (as defined in section 101(a)(13) of title
22 10, United States Code), and who, if separated from the
23 Armed Forces, was separated under honorable conditions,
24 may be naturalized as provided in section 329 of the Im-
25 migration and Nationality Act (8 U.S.C. 1440) as though

1 the person had served during a period designated by the
2 President under such section.

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

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

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

11 **SEC. 6. INFORMATION FOR MILITARY RECRUITS REGARD-**
12 **ING NATURALIZATION THROUGH SERVICE IN**
13 **THE ARMED FORCES.**

14 The Secretary of Defense, in coordination with the
15 Secretary of Homeland Security, shall ensure that there
16 is stationed or employed at each Military Entrance Proc-
17 essing Station—

18 (1) an employee of U.S. Citizenship and Immi-
19 gration Services; or

20 (2) in the case that the Secretary determines
21 that it is impracticable to station or employ a person
22 described in paragraph (1) at a Military Entrance
23 Processing Station, a member of the Armed Forces
24 or an employee of the Department of Defense—

1 (A) whom the Secretary determines is
2 trained in the immigration laws; and

3 (B) who shall inform each military recruit
4 who is not a citizen of the United States pro-
5 cessed at such Military Entrance Processing Sta-
6 tion regarding naturalization through service in
7 the Armed Forces under sections 328 and 329
8 of the Immigration and Nationality Act (8
9 U.S.C. 1439-1440).

10 **SEC. 7. RETURN OF ELIGIBLE VETERANS REMOVED FROM**
11 **THE UNITED STATES; ADJUSTMENT OF STA-**
12 **TUS.**

13 (a) **ELIGIBLE VETERANS.**—In the case of a noncit-
14 izen who has been issued a final order of removal, the Sec-
15 retary of Homeland Security, may, notwithstanding such
16 order of removal, adjust that noncitizen's status to that
17 of an alien lawfully admitted for permanent residence, or
18 admit such noncitizen for lawful permanent residence if
19 the Secretary determines that such noncitizen is a veteran
20 and, consistent with subsection (b), is not inadmissible.

21 (b) **WAIVER.**—

22 (1) **AUTHORITY.**—In the case of a noncitizen
23 veteran described in subsection (a), the Secretary of
24 Homeland Security may waive any applicable ground
25 of inadmissibility under section 212(a) of the Immi-

1 gration and Nationality Act (8 U.S.C. 1182(a))
2 (other than paragraphs (3) and (2)(H) of such sec-
3 tion 212(a), a finding of inadmissibility under para-
4 graph (2)(A) based on a conviction of an aggravated
5 felony described in subparagraph (A), (I), or (K) of
6 section 101(a)(43) (8 U.S.C. 1101(a)(43)), or 5 con-
7 victions for driving while intoxicated (including a
8 conviction for driving while under the influence of or
9 impaired by alcohol or drugs) unless the conviction
10 is older than 25 years, if the Secretary determines
11 that it is in the public interest.

12 (2) PUBLIC INTEREST CONSIDERATIONS.—In
13 determining whether a waiver described in para-
14 graph (1) is in the public interest, the Secretary of
15 Homeland Security shall consider factors including
16 the noncitizen's service in the Armed Forces, and
17 the recency and severity of any offense or conduct
18 that forms the basis of a finding of inadmissibility
19 under section 212(a) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1182(a)).

21 (c) PROCEDURES.—Not later than 180 days after the
22 date of the enactment of this Act, the Secretary of Home-
23 land Security shall, by rule, establish procedures to carry
24 out this section.

1 (d) NO NUMERICAL LIMITATIONS.—Individuals who
 2 are granted lawful permanent residence under this section
 3 shall not be subject to the numerical limitations under sec-
 4 tion 201, 202, or 203 of the Immigration and Nationality
 5 Act (8 U.S.C. 1151, 1152, or 1153).

6 (e) CLARIFICATION.—If a noncitizen veteran's status
 7 is adjusted under this section to that of an alien lawfully
 8 admitted for permanent residence, or if such noncitizen
 9 is lawfully admitted for permanent residence, such adjust-
 10 ment or admission shall create a presumption that the
 11 noncitizen has established good moral character under
 12 paragraphs (1) through (8) of section 101(f) of the Immi-
 13 gration and Nationality Act (8 U.S.C. 1101(f)).

14 (f) LIMITATION ON REMOVAL.—

15 (1) IN GENERAL.—A noncitizen who appears to
 16 be prima facie eligible for lawful permanent resident
 17 status under this section shall be given a reasonable
 18 opportunity to apply for such status. Such noncit-
 19 izen shall not be removed from the United States
 20 until a final administrative decision establishing in-
 21 eligibility for such status is rendered.

22 (2) EFFECT OF FINAL ORDER.—A noncitizen
 23 present in the United States who has been ordered
 24 removed or has been permitted to depart voluntarily
 25 from the United States may, notwithstanding such

1 order or permission to depart, apply for lawful per-
 2 manent resident status under this section. Such non-
 3 citizen shall not be required to file a separate motion
 4 to reopen, reconsider, or vacate the order of removal.
 5 If the Secretary of Homeland Security approves the
 6 application, the Secretary shall notify the Attorney
 7 General of such approval, and the Attorney General
 8 shall cancel the order of removal. If the Secretary
 9 renders a final administrative decision to deny the
 10 application, the order of removal or permission to
 11 depart shall be effective and enforceable to the same
 12 extent as if the application had not been made, only
 13 after all available administrative and judicial rem-
 14 edies have been exhausted.

15 **SEC. 8. ADJUSTMENT OF STATUS FOR CERTAIN IMMEDIATE**
 16 **RELATIVES OF UNITED STATES CITIZEN**
 17 **SERVICE MEMBERS OR VETERANS.**

18 (a) IN GENERAL.—For purposes of an application for
 19 adjustment of status pursuant to an approved petition for
 20 classification under section 204(a)(1)(A) of the Immigra-
 21 tion and Nationality Act (8 U.S.C. 1154(a)(1)(A)), an
 22 alien described in subsection (b)—

23 (1) is deemed to have been inspected and ad-
 24 mitted into the United States; and

1 (2) shall not be subject to paragraphs (6)(A),
 2 (6)(C), (7)(A), and (9) of section 212(a) of such Act
 3 (8 U.S.C. 1182(a)).

4 (b) ALIEN DESCRIBED.—An alien is described in sub-
 5 section (a) if the alien is the beneficiary of an approved
 6 petition for classification under section 204(a)(1)(A) of
 7 the Immigration and Nationality Act (8 U.S.C.
 8 1154(a)(1)(A)) as an immediate relative (as defined in
 9 section 201(b)(2)(A)(i) of such Act (8 U.S.C.
 10 1151(b)(2)(A)(i))) of a citizen of the United States who—

11 (1) served, for a minimum of 2 years, on active
 12 duty in the Armed Forces or in a reserve component
 13 of the United States Armed Forces; and

14 (2) if discharged or released from service in the
 15 Armed Forces, was discharged or released under
 16 honorable conditions.

17 **SEC. 9. DEFINITIONS.**

18 In this Act:

19 (1) ADVISORY COMMITTEE.—The term “Advi-
 20 sory Committee” means the Military Family Immi-
 21 gration Advisory Committee established pursuant to
 22 section 4.

23 (2) APPROPRIATE CONGRESSIONAL COMMIT-
 24 TEES.—The term “appropriate congressional com-
 25 mittees” means—

1 (A) the Committee on Armed Services of
2 the Senate;

3 (B) the Committee on Homeland Security
4 and Governmental Affairs of the Senate;

5 (C) the Committee on the Judiciary of the
6 Senate;

7 (D) the Committee on Veterans' Affairs of
8 the Senate;

9 (E) the Committee on Armed Services of
10 the House of Representatives;

11 (F) the Committee on Homeland Security
12 of the House of Representatives;

13 (G) the Committee on the Judiciary of the
14 House of Representatives; and

15 (H) the Committee on Veterans' Affairs of
16 the House of Representatives.

17 (3) ARMED FORCES.—The term “Armed
18 Forces” has the meaning given the term “armed
19 forces” in section 101 of title 10, United States
20 Code.

21 (4) COVERED FAMILY MEMBER.—The term
22 “covered family member” means the noncitizen
23 spouse or noncitizen child of—

24 (A) a member of the Armed Forces; or

25 (B) a veteran.

1 (5) IMMIGRATION LAWS.—The term “immigra-
2 tion laws” has the meaning given that term in sec-
3 tion 101 of the Immigration and Nationality Act (8
4 U.S.C. 1101).

5 (6) NONCITIZEN.—The term “noncitizen”
6 means an individual who is not a citizen or national
7 of the United States (as defined in section 101(a) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1101(a))).

10 (7) VETERAN.—The term “veteran” has the
11 meaning given such term in section 101 of title 38,
12 United States Code.

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