

117TH CONGRESS
2D SESSION

S. 5055

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. PADILLA (for himself, Mr. DURBIN, Mr. BOOKER, Mr. SANDERS, Ms. WARREN, Mr. MARKEY, Mr. BLUMENTHAL, Mr. BROWN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 2022”.

6 **SEC. 2. STUDY AND REPORT ON NONCITIZEN VETERANS**

7 **REMOVED FROM THE UNITED STATES.**

8 (a) STUDY REQUIRED.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall jointly carry out a study on noncitizen veterans and noncitizen former members of the Armed Forces who were removed from the United States during the period beginning on January 1, 1990, and ending on the date of the enactment of this Act.

(2) ELEMENTS.—The study carried out pursuant to paragraph (1) shall determine—

(A) the number of noncitizens who—

(i) served in the Armed Forces for an aggregate period of more than 180 days; and

(ii) were removed by U.S. Immigration and Customs Enforcement or the Immigration and Naturalization Service during the period covered by the report;

(B) for each noncitizen described in subparagraph (A)—

(i) the country of nationality or last habitual residence of such noncitizen;

(ii) the total time such noncitizen served as a member of the Armed Forces;

1 (iii) each ground on which such non-
2 citizen was ordered removed pursuant to
3 section 212(a) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1182(a)) or section
5 237(a) of such Act (8 U.S.C. 1227(a)), as
6 applicable; and

7 (iv) whether such noncitizen appealed
8 the removal order to the Board of Immi-
9 gration Appeals;

10 (C)(i) the number of noncitizens described
11 in subparagraph (A) who were discharged or re-
12 leased from service under honorable conditions;

13 (ii) the number of noncitizens described in
14 subparagraph (A) who were discharged or re-
15 leased from service under other than honorable
16 conditions;

17 (iii) the number of noncitizens described in
18 subparagraph (A) who were deployed overseas;

19 (iv) the number of noncitizens described in
20 subparagraph (A) who served on active duty in
21 the Armed Forces in an overseas contingency
22 operation;

23 (v) the number of noncitizens described in
24 subparagraph (A) who were awarded decora-
25 tions or medals;

1 (vi) the number of noncitizens described in
 2 subparagraph (A) who applied for benefits
 3 under laws administered by the Secretary of
 4 Veterans Affairs; and

5 (vii) the number of noncitizens described in
 6 subparagraph (A) who receive benefits de-
 7 scribed in clause (vi); and

8 (D) the reasons preventing any of the non-
 9 citizens who applied for benefits described in
 10 subparagraph (C)(vi) from receiving such bene-
 11 fits.

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

18 **SEC. 3. INFORMATION SYSTEM ON VETERANS SUBJECT TO**
 19 **REMOVAL.**

20 (a) ESTABLISHMENT.—Not later than 180 days after
 21 the date of the enactment of this Act, the Secretary of
 22 Homeland Security shall develop—

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

1 (2) a system for maintaining information about
2 noncitizen veterans identified pursuant to the pro-
3 tocol established under paragraph (1) and informa-
4 tion provided by the Under Secretary of Defense for
5 Personnel and Readiness under section 4(d).

6 (b) INFORMATION SHARING.—The system developed
7 pursuant to subsection (a)(2) shall be shared across all
8 components of the Department of Homeland Security, in-
9 cluding Enforcement and Removal Operations, the Office
10 of the Principal Legal Advisor, Homeland Security Inves-
11 tigations, and the Military Family Immigration Advisory
12 Committee.

13 (c) CONSIDERATION OF VETERAN STATUS.—The
14 Secretary of Homeland Security shall ensure that, in the
15 case of any noncitizen veteran who is potentially remov-
16 able, and in any removal proceeding against such a noncit-
17 izen veteran, information available under the system devel-
18 oped pursuant to subsection (a)(2) is taken into consider-
19 ation, including for purposes of any adjudication on the
20 immigration status of such veteran.

21 (d) USE OF SYSTEM REQUIRED.—The Secretary of
22 Homeland Security may not initiate removal proceedings
23 against an individual prior to using the system established
24 pursuant to subsection (a)(2) to attempt to determine
25 whether the individual is a veteran. If the Secretary of

1 Homeland Security determines that such an individual is
2 or may be a veteran, the Secretary shall notify the Military
3 Family Immigration Advisory Committee concurrently
4 upon initiating removal proceedings against such indi-
5 vidual.

6 (e) TRAINING.—Beginning in the first fiscal year that
7 begins after the Secretary of Homeland Security completes
8 the requirements under subsection (a), personnel of U.S.
9 Immigration and Customs Enforcement shall participate
10 in annual training on the protocol developed under this
11 section.

12 **SEC. 4. MILITARY FAMILY IMMIGRATION ADVISORY COM-**
13 **MITTEE.**

14 (a) ESTABLISHMENT.—Not later than 180 days after
15 the date of the enactment of this Act, the Secretary of
16 Homeland Security shall establish an advisory committee,
17 which shall be known as the “Military Family Immigration
18 Advisory Committee”, to provide recommendations to the
19 Secretary of Homeland Security on the exercise of discre-
20 tion in any case involving removal proceedings for—

- 21 (1) a member of the Armed Forces;
22 (2) a veteran; or
23 (3) a covered family member.

1 (b) MEMBERSHIP.—The Advisory Committee shall be
2 composed of 9 members, appointed by the Secretary of
3 Homeland Security.

4 (c) CASE REVIEWS.—

5 (1) IN GENERAL.—Not later than 30 days after
6 the Advisory Committee identifies or is notified
7 about the case of an individual described in sub-
8 section (a), the Advisory Committee shall meet to re-
9 view the case and to provide a written recommenda-
10 tion to the Secretary of Homeland Security on
11 whether—

12 (A) an exercise of discretion is warranted,
13 including—

14 (i) termination of removal pro-
15 ceedings;

16 (ii) parole;

17 (iii) deferred action;

18 (iv) a stay of removal;

19 (v) administrative closure; or

20 (vi) authorization to apply for any
21 other form of relief; or

22 (B) to continue seeking the removal of
23 such individual.

24 (2) SUBMISSION OF INFORMATION.—An indi-
25 vidual who is the subject of a case review under

1 paragraph (1) may submit information to the Advi-
2 sory Committee, and the Advisory Committee shall
3 consider such information.

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

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

10 (i) was an enlisted member or officer
11 of the Armed Forces;

12 (ii) received a medal or decoration,
13 was deployed, or was otherwise evaluated
14 for merit in service during his or her serv-
15 ice in the Armed Forces;

16 (iii) is a national of a country that
17 prohibits repatriation of an individual after
18 any service in the Armed Forces; or

19 (iv) contributed to his or her local
20 community during his or her service in the
21 Armed Forces;

22 (B) with respect to a veteran, whether the
23 individual—

24 (i) was an enlisted member or officer
25 of the Armed Forces;

1 (ii) completed a period of service in
2 the Armed Forces and was discharged
3 under conditions other than dishonorable;

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

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

12 (v) contributed to his or her local
13 community during or after his or her serv-
14 ice in the Armed Forces; and

15 (C) with respect to a covered family mem-
16 ber, whether the individual—

17 (i) supported a member of the Armed
18 Forces serving on active duty or a veteran,
19 including through financial support, emo-
20 tional support, or caregiving; or

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

24 (d) BRIEFINGS ON NONCITIZEN VETERANS.—The
25 Under Secretary of Defense for Personnel and Readiness

1 shall provide detailed briefings to the Advisory Committee
2 regarding the service of a noncitizen veteran when that
3 individual's case is being considered by the Advisory Com-
4 mittee.

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

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

20 (g) LIMITATION ON REMOVAL.—Notwithstanding
21 any other provision of law, an individual described in sub-
22 section (a) may not be ordered removed until the Advisory
23 Committee has provided a recommendation with respect
24 to such individual to the Secretary of Homeland Security.

1 **SEC. 5. PROGRAM OF CITIZENSHIP THROUGH MILITARY**
2 **SERVICE.**

3 (a) IN GENERAL.—

4 (1) PROGRAM ESTABLISHED.—The Secretary of
5 Homeland Security, acting through the Director of
6 U.S. Citizenship and Immigration Services, and in
7 coordination with the Secretary of Defense, shall
8 jointly implement a program to ensure that—

9 (A) each eligible noncitizen is afforded the
10 opportunity to file an application for naturaliza-
11 tion at any point on or after the first day of
12 service on active duty or first day of service as
13 a member of the Selected Reserve pursuant to
14 section 329 of the Immigration and Nationality
15 Act (8 U.S.C. 1440); and

16 (B) the duly authenticated certification (or
17 any other successor form) required under sec-
18 tion 329(b)(3) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1140(b)(3)) is issued to
20 each noncitizen not later than 30 days after the
21 individual makes a request for such certifi-
22 cation.

23 (2) ELIGIBLE NONCITIZEN.—In this subsection,
24 the term “eligible noncitizen” means a noncitizen
25 who serves or has served in the Armed Forces dur-
26 ing any period that the President by Executive order

1 designates as a period during which the Armed
2 Forces are or were engaged in military operations
3 involving armed conflict with a hostile foreign force.

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

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

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

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

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

21 (d) ANNUAL REPORTS.—The Secretary of each mili-
22 tary department shall annually submit a report to the ap-
23 propriate congressional committees that identifies the
24 number of all noncitizens who enlisted or were appointed
25 in the military department concerned, all members of the

1 Armed Forces in their department who naturalized, and
 2 all members of the Armed Forces in their department who
 3 were discharged or released without United States citizen-
 4 ship under the jurisdiction of such Secretary during the
 5 preceding year.

6 (e) FURTHER FACILITATION NATURALIZATION FOR
 7 MILITARY PERSONNEL IN CONTINGENCY OPERATIONS.—
 8 Any person who has served honorably as a member of the
 9 Armed Forces of the United States in support of a contin-
 10 gency operation (as defined in section 101(a)(13) of title
 11 10, United States Code), and who, if separated from the
 12 Armed Forces, was separated under honorable conditions,
 13 may be naturalized as provided in section 329 of the Im-
 14 migration and Nationality Act (8 U.S.C. 1440) as though
 15 the person had served during a period designated by the
 16 President under such section.

17 (f) NATURALIZATION THROUGH SERVICE IN THE
 18 ARMED FORCES OF THE UNITED STATES.—Section 328
 19 of the Immigration and Nationality Act (8 U.S.C. 1439)
 20 is amended—

- 21 (1) in subsection (a), by striking “six months”
 22 and inserting “one year”; and
- 23 (2) in subsection (d), by striking “six months”
 24 and inserting “one year”.

1 **SEC. 6. INFORMATION FOR MILITARY RECRUITS REGARD-**
2 **ING NATURALIZATION THROUGH SERVICE IN**
3 **THE ARMED FORCES.**

4 The Secretary of Defense, in coordination with the
5 Secretary of Homeland Security, shall ensure that there
6 is stationed or employed at each Military Entrance Proc-
7 essing Station—

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

10 (2) in the case that the Secretary determines
11 that it is impracticable to station or employ a person
12 described in paragraph (1) at a Military Entrance
13 Processing Station, a member of the Armed Forces
14 or an employee of the Department of Defense—

15 (A) whom the Secretary determines is
16 trained in the immigration laws; and

17 (B) who shall inform each military recruit
18 who is not a citizen of the United States proc-
19 essed at such Military Entrance Processing Sta-
20 tion regarding naturalization through service in
21 the Armed Forces under sections 328 and 329
22 of the Immigration and Nationality Act (8
23 U.S.C. 1439–1440).

1 **SEC. 7. RETURN OF ELIGIBLE VETERANS REMOVED FROM**
2 **THE UNITED STATES; ADJUSTMENT OF STA-**
3 **TUS.**

4 (a) **ELIGIBLE VETERANS.**—Notwithstanding the
5 issuance of a final order of removal against a noncitizen,
6 the Secretary of Homeland Security may adjust such non-
7 citizen’s status to that of an alien lawfully admitted for
8 permanent residence, or admit such noncitizen for lawful
9 permanent residence if the Secretary determines that such
10 noncitizen—

11 (1) is a veteran; and

12 (2) except as provided in subsection (b), is not
13 inadmissible.

14 (b) **WAIVER.**—

15 (1) **AUTHORITY.**—The Secretary of Homeland
16 Security may waive any applicable ground of inad-
17 missibility with respect to a noncitizen veteran de-
18 scribed in subsection (a), under section 212(a) of the
19 Immigration and Nationality Act (8 U.S.C. 1182(a))
20 (other than paragraph (3) of such section 212(a), or
21 a finding of inadmissibility under paragraph (2)(A)
22 based on a conviction of an aggravated felony de-
23 scribed in subparagraph (A), (I), or (K) of section
24 101(a)(43) of such Act (8 U.S.C. 1101(a)(43))) if
25 the Secretary determines that such waiver is in the
26 public interest.

1 (2) PUBLIC INTEREST CONSIDERATIONS.—In
2 determining whether a waiver described in para-
3 graph (1) is in the public interest, the Secretary of
4 Homeland Security shall consider factors, such as—

5 (A) the noncitizen’s service in the Armed
6 Forces; and

7 (B) the recency and severity of any offense
8 or conduct that forms the basis of a finding of
9 inadmissibility under section 212(a) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1182(a)).

12 (c) PROCEDURES.—Not later than 180 days after the
13 date of the enactment of this Act, the Secretary of Home-
14 land Security shall promulgate regulations that establish
15 procedures for carrying out this section.

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

21 (e) CLARIFICATION.—If a noncitizen’s status is ad-
22 justed to that of an alien lawfully admitted for permanent
23 residence, or if such noncitizen is lawfully admitted for
24 permanent residence, such adjustment or admission shall
25 create a presumption that the noncitizen has established

1 good moral character under paragraphs (1) through (8)
2 of section 101(f) of the Immigration and Nationality Act
3 (8 U.S.C. 1101(f)).

4 (f) LIMITATION ON REMOVAL.—

5 (1) IN GENERAL.—A noncitizen who appears to
6 be prima facie eligible for lawful permanent resident
7 status under this section shall be given a reasonable
8 opportunity to apply for such status. Such noncit-
9 izen may not be removed from the United States
10 until a final administrative decision establishing in-
11 eligibility for such status is rendered.

12 (2) EFFECT OF FINAL ORDER.—

13 (A) IN GENERAL.—A noncitizen present in
14 the United States who has been ordered re-
15 moved or has been permitted to depart volun-
16 tarily from the United States may, notwith-
17 standing such order or permission to depart,
18 apply for lawful permanent resident status
19 under this section. Such noncitizen may not be
20 required to file a separate motion to reopen, re-
21 consider, or vacate the order of removal.

22 (B) EFFECT OF APPROVAL.—If the Sec-
23 retary of Homeland Security approves an appli-
24 cation filed pursuant to subparagraph (A)—

1 (i) the Secretary shall notify the At-
2 torney General of such approval; and

3 (ii) the Attorney General shall cancel
4 the order of removal.

5 (C) EFFECT OF DENIAL.—If the Secretary
6 of Homeland Security renders a final adminis-
7 trative decision to deny an application filed pur-
8 suant to subparagraph (A), the order of re-
9 moval or permission to depart shall be effective
10 and enforceable to the same extent as if the ap-
11 plication had not been made, only after all
12 available administrative and judicial remedies
13 have been exhausted.

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

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

22 (1) is be deemed to have been inspected and ad-
23 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 described in this
 5 subsection is the beneficiary of an approved petition for
 6 classification under section 204(a)(1)(A) of the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1154(a)(1)(A)) as an
 8 immediate relative (as defined in section 201(b)(2)(A)(i)
 9 of such Act (8 U.S.C. 1151(b)(2)(A)(i))) of a citizen of
 10 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(4) 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 such term in sec-
3 tion 101(a)(17) of the Immigration and Nationality
4 Act (8 U.S.C. 1101(a)(17)).

5 (6) NONCITIZEN.—The term “noncitizen”
6 means an individual who is not a national of the
7 United States (as defined in section 101(a)(22) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(22))).

10 (7) VETERAN.—The term “veteran” has the
11 meaning given such term in section 101(2) of title
12 38, United States Code.

○