H. R. 7946

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2022

Mr. Takano (for himself, Ms. Lofgren, Mr. Nadler, Mr. Vargas, Mr. Correa, and Mr. Ruiz) 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 2022”.

6 SEC. 2. SENSE OF CONGRESS.

7 It is the sense of Congress that—
(1) military service to the United States is a
sacrifice that demonstrates loyalty to the Nation;

(2) a noncitizen who takes an oath of enlist-
ment or an oath of office to join the United States
Armed Forces—promising to support and defend the
Constitution of the United States against all en-
emies, foreign and domestic—deserves facilitated ac-
cess to naturalization;

(3) such a noncitizen and his or her family
members deserve consideration for the exercise of
discretion in immigration removal proceedings; and

(4) a noncitizen veteran who is removed should
continue to be eligible for the same veterans’ bene-
fits to which a similarly situated veteran in the
United States would be entitled.

SEC. 3. STUDY AND REPORT ON NONCITIZEN VETERANS
REMOVED FROM THE UNITED STATES.

(a) Study Required.—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 mem-
bers 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, which shall include the following:

(1) The number of noncitizens removed by U.S. Immigration and Customs Enforcement or the Immigration and Naturalization Service during the period covered by the report who served in the Armed Forces for an aggregate period of more than 180 days.

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

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

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

(C) each ground on which the noncitizen was ordered removed under section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) or section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), as applicable; and

(D) whether the noncitizen appealed the removal order to the Board of Immigration Appeals.

(3) Each of the following enumerations:
(A) The number of noncitizens described in paragraph (1) who were discharged or released from service under honorable conditions.

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

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

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

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

(F) The number of noncitizens described in paragraph (1) who applied for benefits under laws administered by the Secretary of Veterans Affairs.

(G) The number of noncitizens described in paragraph (1) who receive benefits described in subparagraph (E).

(4) A description of the reasons preventing any of the noncitizens who applied for benefits described in paragraph (3)(E) from receiving such benefits.
(b) REPORT.—Not later than 90 days after the date of the completion of the study required under subsection (a), the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall jointly submit a report containing the results of such study to the appropriate congressional committees.

SEC. 4. INFORMATION SYSTEM ON VETERANS SUBJECT TO REMOVAL.

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

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

(2) a system for maintaining information about noncitizen veterans identified pursuant to the protocol created under paragraph (1) and information provided by the Secretary of Defense under section 5(d).

(b) INFORMATION SHARING.—The system shall be shared across all components of the Department of Homeland Security, including Enforcement and Removal Operations, the Office of the Principal Legal Advisor, Homeland Security Investigations, and the Military Family Immigration Advisory Committee.
(c) CONSIDERATION OF VETERAN STATUS.—The Secretary shall ensure that, in the case of any noncitizen veteran who is potentially removable, and in any removal proceeding against such a noncitizen veteran, information available under this system is taken into consideration, including for purposes of any adjudication on the immigration status of such veteran.

(d) USE OF SYSTEM REQUIRED.—The Secretary may not initiate removal proceedings against an individual prior to using the system established under subsection (a) to attempt to determine whether the individual is a veteran. If the Secretary determines that such an individual is or may be a veteran, the Secretary shall notify the Military Family Immigration Advisory Committee concurrently upon initiating removal proceedings against such individual.

(e) TRAINING.—Beginning in the first fiscal year that begins after the Secretary of Homeland Security completes the requirements under subsection (a), personnel of U.S. Immigration and Customs Enforcement shall participate, on an annual basis, in a training on the protocol and best practices developed under subsection (a).
SEC. 5. MILITARY FAMILY IMMIGRATION ADVISORY COMMITTEE.

(a) Establishment.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish an advisory committee, to be known as the “Military Family Immigration Advisory Committee”, to provide recommendations to the Secretary of Homeland Security on the exercise of discretion in any case involving removal proceedings for—

(1) a member of the Armed Forces;

(2) a veteran; or

(3) a covered family member.

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

(c) Case Reviews.—

(1) In general.—Not later than 30 days after the Advisory Committee identifies or is notified about the case of an individual described in subsection (a), the Advisory Committee shall meet to review the case and to provide a written recommendation to the Secretary of Homeland Security on whether—

(A) an exercise of discretion is warranted, including—
(i) termination of removal proceedings;
(ii) parole;
(iii) deferred action;
(iv) a stay of removal;
(v) administrative closure; or
(vi) authorization to apply for any other form of relief; or

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

(2) Submission of Information.—An individual who is the subject of a case review under paragraph (1) may submit information to the Advisory Committee, and the Advisory Committee shall consider such information.

(3) Procedures.—In conducting each case review under paragraph (1), the Advisory Committee shall consider, as factors weighing in favor of a recommendation under paragraph (1)(A)—

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

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

(ii) received a medal or decoration, was deployed, or was otherwise evaluated
for merit in service during his or her service in the Armed Forces;

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

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

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

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

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

(iii) received a medal or decoration, was deployed, or was otherwise evaluated for merit in service during his or her service 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.

(d) **Briefings on Noncitizen Veterans.**—The Under Secretary of Defense for Personnel and Readiness shall provide detailed briefings to the Advisory Committee regarding the service of a noncitizen veteran when that individual’s case is being considered by the Advisory Committee.

(e) **Briefings on Actions in Response to Recommendations.**—Not less frequently than quarterly, the Secretary of Homeland Security shall provide detailed briefings to the Advisory Committee regarding actions taken in response to the recommendations of the Advisory Committee, including detailed explanations for any cases
in which a recommendation of the Advisory Committee was not followed.

(f) **TRANSFER OF CASE FILES.**—For any individual with respect to whom the Advisory Committee is conducting a case review under this section, the Secretary of Defense and Secretary of Homeland Security shall provide to the Advisory Committee a copy of any available record pertaining to that individual, including such individual’s alien file, that is relevant to the case review.

(g) **LIMITATION ON REMOVAL.**—Notwithstanding any other provision of law, an individual described in subsection (a) may not be ordered removed until the Military Family Immigration Advisory Committee has provided a recommendation with respect to that individual to the Secretary of Homeland Security.

**SEC. 6. PROGRAM OF CITIZENSHIP THROUGH MILITARY SERVICE.**

(a) **IN GENERAL.**—

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

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

(B) the duly authenticated certification (or
any other successor form) required under sec-
tion 329(b)(3) of the Immigration and Nation-
ality 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 certifi-
cation.

(2) ELIGIBLE NONCITIZEN.—For purposes of
this paragraph, the term “eligible noncitizen” means
a noncitizen who—

(A) serves or has served in the Armed
Forces of the United States during any period
that the President by Executive order des-
ignates as a period during which the Armed
Forces of the United States are or were en-
gaged in military operations involving armed
conflict with a hostile foreign force; or

(B) serves or has served as a member of
the Armed Forces of the United States in sup-
port of a contingency operation (as defined in
section 101(a)(13) of title 10, United States Code), and who, if separated from the Armed Forces, was separated under honorable conditions, may be naturalized as provided in section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) as though the person had served during a period designated by the President under such section.

(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;

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

(3) points of contact at the Department of Homeland Security to resolve emergency immigration-related situations with respect to such individuals and their family members.
(d) **Annual Reports.**—The Secretary of each military department shall annually submit to the appropriate congressional committees a report on the number of all noncitizens who enlisted or were appointed in the military department concerned, all members of the Armed Forces in their department who naturalized, and all members of the Armed Forces in their department who were discharged or released without United States citizenship under the jurisdiction of such Secretary during the preceding year.

(e) **Further Facilitation Naturalization for Military Personnel in Contingency Operations.**—Any person who has served honorably as a member of the Armed Forces of the United States in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code), and who, if separated from the Armed Forces, was separated under honorable conditions, may be naturalized as provided in section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) as though the person had served during a period designated by the President under such section.

(f) **Naturalization Through Service in the Armed Forces of the United States.**—Section 328 of the Immigration and Nationality Act (8 U.S.C. 1439) is amended—
(1) in subsection (a), by striking “six months” and inserting “one year”; and
(2) in subsection (d), by striking “six months” and inserting “one year”.

SEC. 7. INFORMATION FOR MILITARY RECRUITS REGARDING NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES.

The Secretary of Defense, in coordination with the Secretary of Homeland Security, shall ensure that there is stationed or employed at each Military Entrance Processing Station—

(1) an employee of U.S. Citizenship and Immigration Services; or

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

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

(B) who shall inform each military recruit who is not a citizen of the United States processed at such Military Entrance Processing Station regarding naturalization through service in the Armed Forces under sections 328 and 329

SEC. 8. RETURN OF ELIGIBLE VETERANS REMOVED FROM THE UNITED STATES; ADJUSTMENT OF STATUS.

(a) ELIGIBLE VETERANS.—In the case of a noncitizen who has been issued a final order of removal, the Secretary of Homeland Security, may, notwithstanding such order of removal, adjust that noncitizen’s status to that of an alien lawfully admitted for permanent residency, or admit such noncitizen for lawful permanent residency if the Secretary determines that such noncitizen is a veteran and, consistent with subsection (b), is not inadmissible.

(b) WAIVER.—

(1) AUTHORITY.—In the case of a noncitizen veteran described in subsection (a), the Secretary of Homeland Security may waive any applicable ground of inadmissibility under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) (other than paragraphs (3) and (2)(H) of such section 212(a), or a finding of inadmissibility under paragraph (2)(A) based on a conviction of an aggravated felony described in subparagraph (A), (I), or (K) of section 101(a)(43) (8 U.S.C. 1101(a)(43)) if
the Secretary determines that it is the public interest.

(2) Public Interest Considerations.—In determining whether a waiver described in paragraph (1) is in the public interest, the Secretary shall consider factors including the noncitizen’s service in the Armed Forces, and the recency and severity of any offense or conduct that form the basis of a finding of inadmissibility under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(c) Procedures.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, by rule, establish procedures to carry out this section.

(d) No Numerical Limitations.—Individuals who are granted lawful permanent residence under this section shall not be subject to the numerical limitations under section 201, 202, or 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, or 1153).

(e) Clarification.—If a noncitizen’s status is adjusted to that of an alien lawfully admitted for permanent residency, or if such noncitizen is lawfully admitted for permanent residency, such adjustment or admission shall create a presumption that the noncitizen has established
good moral character under paragraphs (1) through (8)
of section 101(f) of the Immigration and Nationality Act
(8 U.S.C. 1101(f)).

(f) LIMITATION ON REMOVAL.—

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

(2) EFFECT OF FINAL ORDER.—A noncitizen
present in the United States who has been ordered
removed or has been permitted to depart voluntarily
from the United States may, notwithstanding such
order or permission to depart, apply for lawful per-
manent resident status under this section. Such non-
citizen shall not be required to file a separate motion
to reopen, reconsider, or vacate the order of removal.
If the Secretary approves the application, the Sec-
retary shall notify the Attorney General of such ap-
proval, and the Attorney General shall cancel the
order of removal. If the Secretary renders a final ad-
ministrative decision to deny the application, the
order of removal or permission to depart shall be ef-
effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

**SEC. 9. DEFINITIONS.**

In this Act:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Military Family Immigration Advisory Committee established pursuant to section 5.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

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

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

(D) the Committee on Veterans’ Affairs of the Senate;

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

(F) the Committee on Homeland Security of the House of Representatives;
(G) the Committee on the Judiciary of the House of Representatives; and

(H) the Committee on Veterans’ Affairs of the House of Representatives.

(3) ARMED FORCES.—The term "Armed Forces" has the meaning given the term "armed forces" in section 101 of title 10, United States Code.

(4) COVERED FAMILY MEMBER.—The term "covered family member" means the noncitizen spouse or noncitizen child of—

(A) a member of the Armed Forces; or

(B) a veteran, as defined in paragraph (7).

(5) IMMIGRATION LAWS.—The term "immigration laws" has the meaning given that term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(6) NONCITIZEN.—The term "noncitizen" means an individual who is not a citizen or national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))).
(7) VETERAN.—The term “veteran” has the meaning given such term in section 101 of title 38, United States Code.