Expedited Citizenship Through Military Service: Current Law, Policy, and Issues

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Summary

Since the beginning of Operation Iraqi Freedom in March 2003, there has been and continues to be considerable congressional interest in further streamlining and expediting the naturalization process for military personnel and in providing immigration benefits specifically for immediate relatives of such personnel. The reported deaths in action of noncitizen soldiers drew attention to the immigration laws that grant posthumous citizenship and to the advantages of further expediting naturalization for noncitizens serving in the United States military. President George W. Bush officially designated the period beginning on September 11, 2001, as a "period of hostilities," which triggered immediate naturalization eligibility for active-duty U.S. military service members. The Department of Defense and the U.S. Citizenship and Immigration Services (USCIS) are cooperating to ensure that military naturalization applications are processed expeditiously.

Title XVII of P.L. 108-136, the National Defense Authorization Act for Fiscal Year 2004 (November 24, 2003), amended existing military naturalization statutes by reducing the period of service required for naturalization based on peacetime service from three years to one year; waiving fees for naturalization based on military service during peacetime or wartime; permitting naturalization processing overseas in U.S. embassies, consulates, and military bases; providing for priority consideration for military leave and transport to finalize naturalization; and by extending naturalization based on wartime service to members of the Selected Reserve of the Ready Reserve. The Secretary of Defense or the Secretary's designee within the U.S. Citizenship and Immigration Services was authorized to request posthumous citizenship with permission from the next-of-kin. The law also expanded immigration benefits available to the immediate relatives (spouses, children, and parents) of citizens, including posthumous citizens, who die from injuries or illnesses resulting from or aggravated by serving in combat. The effective date was retroactive to September 11, 2001, except for the fee waivers and provision for naturalization proceedings abroad, effective October 1, 2004.

Efforts since P.L. 108-136 have focused on further streamlining procedures or extending immigration benefits to immediate relatives of U.S. service members. Most recently, P.L. 110-382, the Military Personnel Citizenship Processing Act, expedited certain military service-related applications by establishing a Federal Bureau of Investigation (FBI) liaison office in USCIS to monitor the completion of FBI background checks and by setting a deadline for processing such naturalization applications. P.L. 110-251, the Kendell Frederick Citizenship Assistance Act, streamlined background checks, particularly regarding biometric data. Sections 673 and 674 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008 (January 28, 2008), ensured reentry into the United States by lawful permanent residents (LPRs) who are spouses and children accompanying a military service member abroad (whose presence abroad might otherwise be deemed as abandonment of LPR status) and also provided for overseas naturalization for such LPRs. This report will be updated as legislative activity occurs or other events warrant.

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Background

Since the beginning of Operation Iraqi Freedom in March 2003, there has been considerable interest in legislation to expand the citizenship benefits of aliens serving in the military. The reported deaths in action of noncitizen soldiers drew attention to provisions of the Immigration and Nationality Act (INA) that grant posthumous citizenship to those who die as a result of active-duty service during a period of hostilities and to the advantages of further expediting naturalization for noncitizens serving in the United States military, beyond the former special naturalization rules for aliens with service in the U.S. military. Title XVII of P.L. 108-136, the National Defense Authorization Act for Fiscal Year 2004 (November 24, 2003), entitled "Naturalization and Other Immigration Benefits for Military Personnel and Families," amended military naturalization and posthumous citizenship statutes and provided immigration benefits for immediate relatives (spouses, children, and parents of citizens)[1] of U.S. citizen service members who die as a result of actual combat. Between September 11, 2001, and December 31, 2008, about 45,000 service members were naturalized; 6,196 service members were naturalized in ceremonies held abroad and on Navy ships at sea; and posthumous citizenship was granted to 118 service members.[2] As of June 2008, there were 4,255 pending military naturalization applications; almost 60% of military naturalization cases are completed within 120 days.[3] This report gives an overview of the history of naturalization based on military service, discusses current law and policy, analyzes data on noncitizens in the military today and prior to the enactment of P.L. 108-136, and discusses current legislative proposals and related issues.

Brief Overview of Naturalization

Title 3, Chapter 2 of the INA provides that all LPRs may potentially become citizens through a process known as naturalization. To naturalize, aliens must have continuously resided in the United States for five years as LPRs (three years in the case of spouses of U.S. citizens and members of the armed services); show that they have good moral character; demonstrate the ability to read, write, speak, and understand English; and pass an examination on the government and history of the United States.[4] Applicants pay fees totaling $675 when they file their materials and have the option of taking a standardized civics (i.e., government and history of the United States) test or of having the examiner quiz them on civics as part of their interview. Naturalization duties are now handled by U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS).[5]

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[1] "Immediate relatives" are defined at INA §201(b)(2)(A)(i), codified at 8 U.S.C. §1151(b)(2)(A)(i), as including spouses; children; and parents of a citizen who is at least 21 years old. A "child" is defined at INA §101(b), codified at 8 U.S.C. §1101(b), as an unmarried person under twenty-one years of age.

[2] USCIS fact sheet, *Naturalization Process for the Military Service* (Feb. 3, 2009), available at http://www.uscis.gov/files/article/USCIS%20FACT%20SHEET%20%20Naturalization_Process_Military_3feb09.pdf.

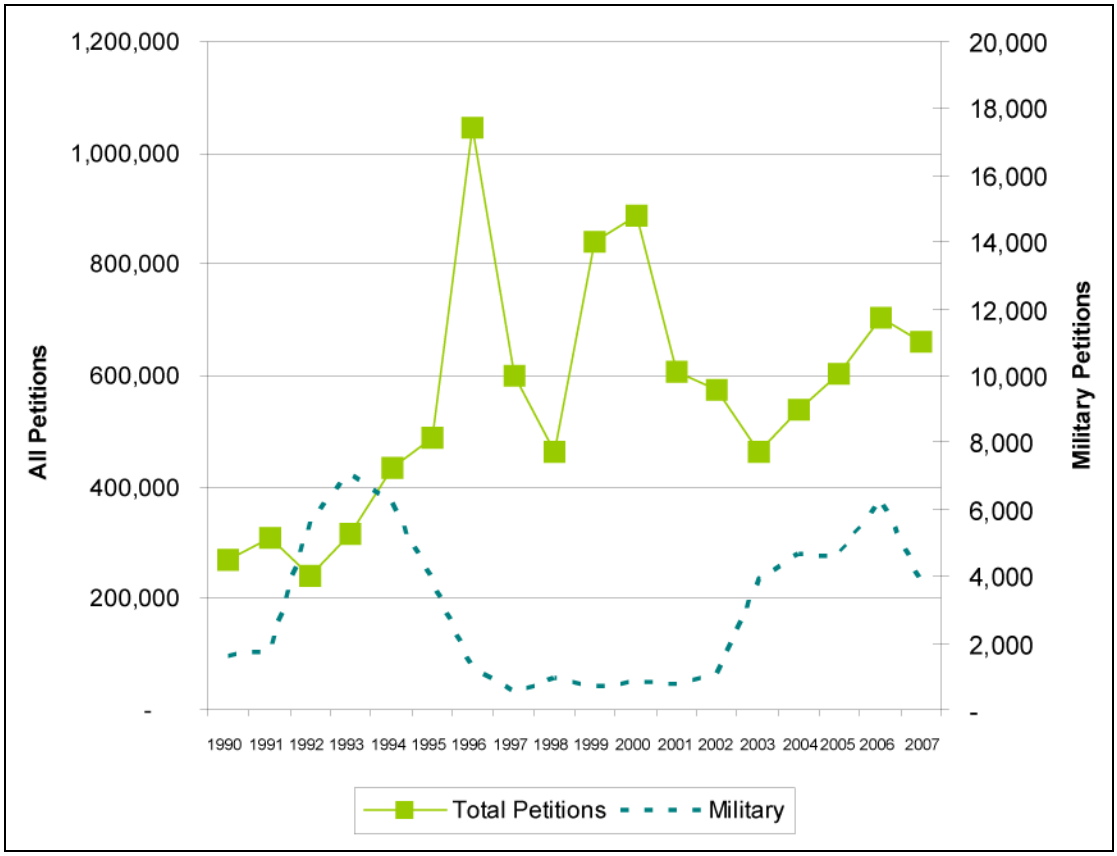
[3] USCIS Ombudsman, Annual Report 2008 (June 30, 2008), available at http://www.dhs.gov/xlibrary/assets/CISOMB_Annual_Report_2008.pdf.

[4] The language requirement is waived for those who are at least 50 years old and have lived in the United States at least 20 years, or who are at least 55 years old and have lived in the United States at least 15 years. Special consideration on the civics requirement is to be given to aliens who are over 65 years old and have lived in the United States for at least 20 years. Both the language and civics requirements are waived for those who are unable to comply due to physical or developmental disabilities or mental impairment.

[5] §451(b) of the Homeland Security Act of 2002 (P.L. 107-296).

The INA also provides for expedited naturalization for noncitizens serving in the U.S. military.[6] During peacetime, noncitizens serving honorably in the military may petition to naturalize after a period(s) of military service aggregating one year rather than the requisite five years of lawful permanent residence. During periods of military hostilities designated by executive order, noncitizens serving honorably in the Armed Forces can naturalize immediately. Certain requirements for naturalization are waived for those who are serving in the U.S. military, notably the requirement to reside continuously in the United States. The INA also provides that noncitizens who die during active duty may become citizens posthumously, and also provides that surviving immediate family members may derive nationality benefits from the granting of posthumous citizenship.[7]

Figure 1. Naturalization Petitions Approved FY1990-FY2007



Source: CRS presentation of USCIS data.

The total number of approved naturalization (N-400) petitions rose in the mid-1990s, dropped in FY1997, and rose again in FY1999 (**Figure 1**).[8] From FY2003 to FY2006, total naturalization approvals rose but dropped slightly in FY2007. Interestingly, USCIS reported that more petitions

[6] §329 of INA, 8 U.S.C. §1440.

[7] §329A of INA, 8 U.S.C. §1440-1.

[8] DHS statistics are from Table 20, Office of Immigration Statistics, the 2006 Yearbook of Immigration Statistics. Mari-Jana Oboroceanu, Information Research Specialist, Knowledge Services Group in the Congressional Research Service, obtained the DOD statistics; LaTanya Andrews and Jamie L. Hutchinson produced the graphics in this report.

were approved (604,280) than were filed (602,972) in FY2005, due in part to backlog reduction efforts.[9]

The trend line of approved naturalization petitions among the military differs from the overall trends, as **Figure 1** illustrates. Military naturalizations, as one might predict, coincide with the Persian Gulf Conflict in the early 1990s and what the Bush Administration termed a War on Terrorism, which are discussed more fully below in this report.

Executive Order 13269

On July 3, 2002, President George W. Bush officially designated the period beginning on September 11, 2001, the War on Terrorism, as a "period of hostilities," which triggered immediate naturalization eligibility for active-duty U.S. military service members.[10] The justification offered for this order was the war conducted through Operation Enduring Freedom and Operation Noble Eagle in response to the September 11, 2001, terrorist attack. At the time of the designation, the Department of Defense (DOD) and the former Immigration and Naturalization Service (INS) announced that they would work together to ensure that military naturalization applications would be processed expeditiously.

Historical Background

Special naturalization provisions for aliens serving in the U.S. military date back at least to the Civil War,[11] and special enactments have been made during major conflicts since that time, up to and including the Vietnam War. The specific conditions for naturalization under the various statutes that were enacted before the INA vary.[12] For example, the original Civil War statute affected only persons serving in the armies of the United States and did not include the Navy or Marine Corps, which were included in 1894.[13]

Among other standards under various statutes, the Civil War statute required residency of one year. Later statutes governing naturalization through service in the Navy or Marine Corps required service of 5 consecutive years in the Navy (the length of one tour of duty in the Navy at that time) or service for one tour of duty in the Marine Corps. Subsequent statutes have similar requirements with variations in the length of service required and the degree to which residency is waived.

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[9] The total number of naturalization petitions approved tracks the overall trend in citizenship applications. For a variety of reasons, the number of immigrants petitioning to naturalize surged in the mid-1990s, jumping from just over half a million applicants in FY1994 to more than 1 million in FY1995. There were an unprecedented 1.6 million petitions in FY1997, but the number had declined to 460,916 petitions in FY2000. The number of N-400 petitions filed has been edging upward in the mid-2000s.

[10] Executive Order 13269, *Federal Register*, v. 67, no. 130, July 8, 2002. Although the title of the executive order refers to the "War on Terrorism," the main text of the order refers to the "war against terrorists." This report will use the term "War on Terrorism."

[11] Act of July 17, 1862, ch. 200, §21, 12 Stat. 594, 597.

[12] For a discussion of the legislative history of the various military naturalization statutes, see Darlene C. Goring, *In Service to America: Naturalization of Undocumented Alien Veterans*, 31 Seton Hall L. Rev. 400, 408-430 (2000).

[13] Act of July 26, 1894, ch. 165, 28 Stat. 124.

The early statutes required the alien to be 21 years old and waived the now-obsolete requirement to declare one's intent to become a citizen a certain period of time prior to filing a naturalization application. The requirement of an honorable discharge dates from the Civil War statute. Statutes during World War I and the Korean War permitted naturalization proceedings to take place abroad.[14] The World War I statute[15] for the first time waived the fee during wartime; permitted reenlistment only upon the condition that the alien was in the process of becoming a citizen (i.e., had filed a declaration of intent to naturalize); and required that a naturalization application based on peacetime service have been filed while in regular service after reenlistment or within six months of honorable discharge or separation from such service (which is currently the deadline for filing) or while in reserve service after regular service. Thus, at least one term of enlistment had to have been completed before an alien could file for naturalization during peacetime. For Filipinos, that statute required three years of service for naturalization based on peacetime service (which is the currently required period).

Until the Vietnam War, special provisions for wartime service were generally enacted during a particular war and only covered service during that war, not for either past or prospective periods of conflict. Although §329 of the INA as enacted in 1952 included World Wars I and II, it made no provision for future periods. As a consequence, Congress enacted laws to include the Korean War and the Vietnam War. In 1968, Congress amended §329 of the INA to provide that the President is to designate by executive order such periods when the Armed Forces of the United States are engaged in armed conflict with a hostile foreign force.

Not every deployment of U.S. forces to an area where armed conflict occurred has been designated as a period of hostilities. Since the executive order designating the termination of the Vietnam War for naturalization purposes, only two additional periods of hostilities have been designated for such purposes. President Clinton designated the Persian Gulf Conflict as a period of hostilities, and in 2002 President Bush designated the War on Terrorism beginning on September 11, 2001, as a period of hostilities.[16] Although President Reagan designated the Grenada campaign as a period of hostilities, a federal court invalidated it entirely because, in contravention of statutory guidelines for such designations, the executive order attempted to limit the expedited naturalization benefit to persons who served in certain geographic areas and the record showed that the President would not have designated the campaign as a period of hostilities without the geographic limitations.[17] As a result of the decision, President Clinton revoked the earlier Grenada designation.[18]

Military actions in Somalia, Bosnia, Kosovo, Haiti, and Panama have not been designated as a period of hostilities, although U.S. forces faced hostile conditions.

Special issues arose with regard to Filipinos who fought the Japanese in the Philippines (then a U.S. territory) during World War II. Many of these veterans served in irregular units or in the

[14] Act of May 9, 1918, 40 Stat. 542, and R.S. 1750, cross-referenced in that act; Act of June 30, 1953 (P.L. 86), ch. 162, §2, 67 Stat. 108, 109; USCIS Interpretations 329.1(e)(2).

[15] Act of May 9, 1918, ch. 69, 40 Stat. 542.

[16] Executive Order 12939, *Federal Register*, v. 59, no. 228, November 22, 1994; and Executive Order 13269, *Federal Register*, v. 67, no. 130, July 8, 2002.

[17] Executive Order 12582, *Federal Register*, v. 52, no. 23, February 2, 1987; *Matter of Reyes*, 910 F. 2d 611 (9th Cir. 1990).

[18] Executive Order 12913, 59 *Federal Register*, no. 89, p. 23115 (May 4, 1994).

Philippine Army, had never had LPR status although they were U.S. nationals until Philippine independence in 1946,[19] and/or failed, because of bureaucratic policies of the time, to comply with certain filing deadlines. After extended litigation and debate, Congress amended §329 in 1990 to address Filipino veterans of World War II.[20] Such veterans were exempted from the requirement of having been admitted to lawful permanent residence to the United States or having enlisted or reenlisted in the United States. Subsequent amendments enabled naturalization processing to be conducted in the Philippines. However, such special considerations only applied to applications filed by February 2, 1995.

Special consideration was also extended to members of Hmong guerilla units that aided the U.S. military during the Vietnam War era. The Hmong Veterans' Naturalization Act of 2000[21] provided an exemption from the English language requirement and special consideration for civics testing for Laotian refugees who supported the U.S. Armed Forces as members of guerrilla or irregular forces in Laos during the Vietnam War period of hostilities. These special provisions also covered widows and spouses of such guerrilla veterans who were also admitted as Laotian refugees. The spouses of living veterans must have been married to the veteran at the time such veteran sought admission into the United States as a refugee. The number of beneficiaries under this statute was limited to 45,000. The special provisions only applied to naturalization applications filed by a veteran or spouse within three years after May 26, 2000, or by a veteran's widow within three years after November 1, 2000.

During the 1950s, there was a special statute authorizing naturalization for those aliens who had enlisted outside the United States and had not been admitted to the United States as LPRs. Popularly known as the Lodge Act,[22] it was originally enacted in 1950 and was periodically extended during the 1950s, finally expiring on July 1, 1959. Notwithstanding that service was not during a specified period of hostilities, the act authorized naturalization under §329 of an alien who enlisted or reenlisted overseas under the terms of the act; subsequently entered the United States, American Samoa, Swains Island, or the Canal Zone pursuant to military orders; completed five years of service; and was honorably discharged. Such an alien was deemed lawfully admitted for permanent residence for the purposes of naturalization under §329.

Prior to the current statute concerning posthumous citizenship for persons who die as a result of active-duty service during periods of hostilities, there was no public law for posthumous conferral. Posthumous grants of citizenship were accomplished through private laws for specific individuals. These private laws usually specified that no immigration benefit accrued to the

[19] At the time the United States acquired the Philippines, Philippine natives were given the option of affirming allegiance to the Spanish empire and remaining Spanish nationals, or becoming U.S. nationals by default. However, Filipinos were never collectively granted U.S. citizenship. Pursuant to a U.S. statute accepted by the Philippine legislature in 1934, a 10-year transition period was to culminate in Philippine independence and the termination of U.S. nationality for Philippine citizens who had not acquired U.S. citizenship. During that period, Filipinos were considered U.S. nationals owing allegiance to the United States, yet the Philippines were considered a foreign country for immigration purposes with an immigration quota of 50. Japanese occupation during World War II disrupted this period and the Philippines were ultimately granted independence in 1946, whereupon the U.S. nationality of Philippine citizens who had not otherwise previously acquired U.S. citizenship was terminated.

[20] P.L. 101-649, §405, 104 Stat. 5039 (1990), described as amended as a note to INA §329 (8 U.S.C. §1440).

[21] P.L. 106-207, 114 Stat. 316 (2000), codified as amended as a note to INA §312 (8 U.S.C. §1423).

[22] Act of June 30, 1950, 64 Stat. 316.

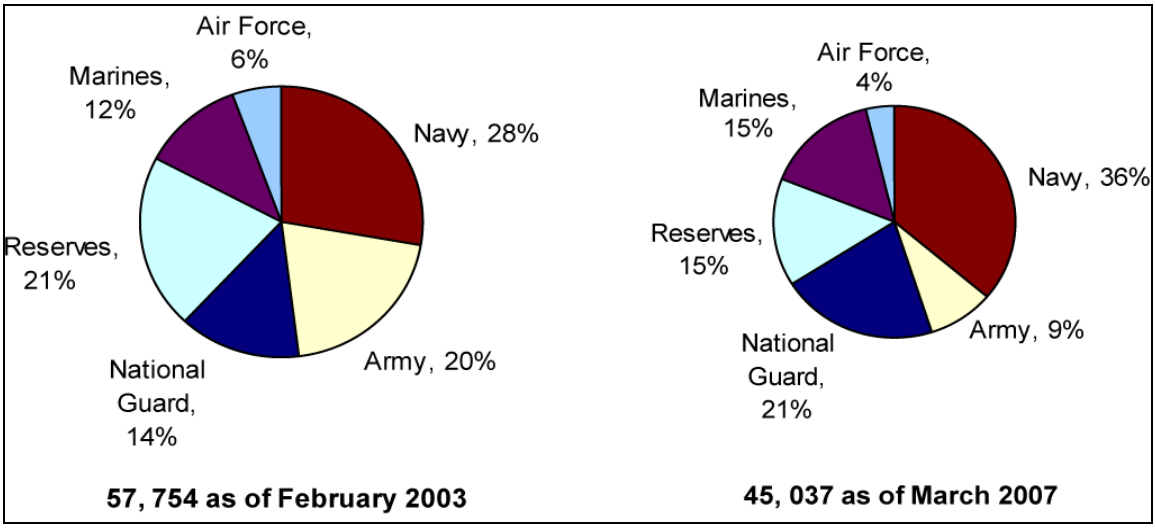
surviving immediate relatives as a result of the posthumous grant. Authority to grant posthumous citizenship was added by the Posthumous Citizenship for Active Duty Service Act of 1989.[23]

Noncitizens in the Military

Prior to Operation Iraqi Freedom, in February 2003, there were a total of 57,754 foreign nationals serving in the U.S. Armed Forces. Of these, over 37,000 noncitizens served among the 1.4 million persons in active duty status in the Army, Navy, Air Force, and Marines, or 2.6% of those in active duty. Almost 12,000 other foreign nationals were serving in the Selected Reserves, and another 8,000 were serving in the Inactive National Guard and Individual Ready Reserves. As **Figure 2** illustrates, the Navy had the largest number of foreign nationals (15,845 or 27.8% of all noncitizens in military), followed by the selected reserves (11,861 or 20.8%) and the Army (11,523 or 20.2%).

By 2007, there was a shift of foreign nationals in the service areas, as well as a decrease in the total number serving. In terms of the Army, Navy, Air Force, and Marines, the number of foreign nationals had fallen to 21,752 serving in active duty as of March 2007.[24] However, the other service areas had increased to 23,285 foreign nationals serving in the Reserves, the Inactive National Guard, and Individual Ready Reserves. As **Figure 2** illustrates, the Navy has the largest number of foreign nationals (36% of all noncitizens in the military), followed by the National Guard (21%), with the Reserves and the Marines each comprising 15%.

Figure 2. Noncitizens in the U.S. Military by Service Area: 2003 and 2007



Source: CRS analysis of DOD data.

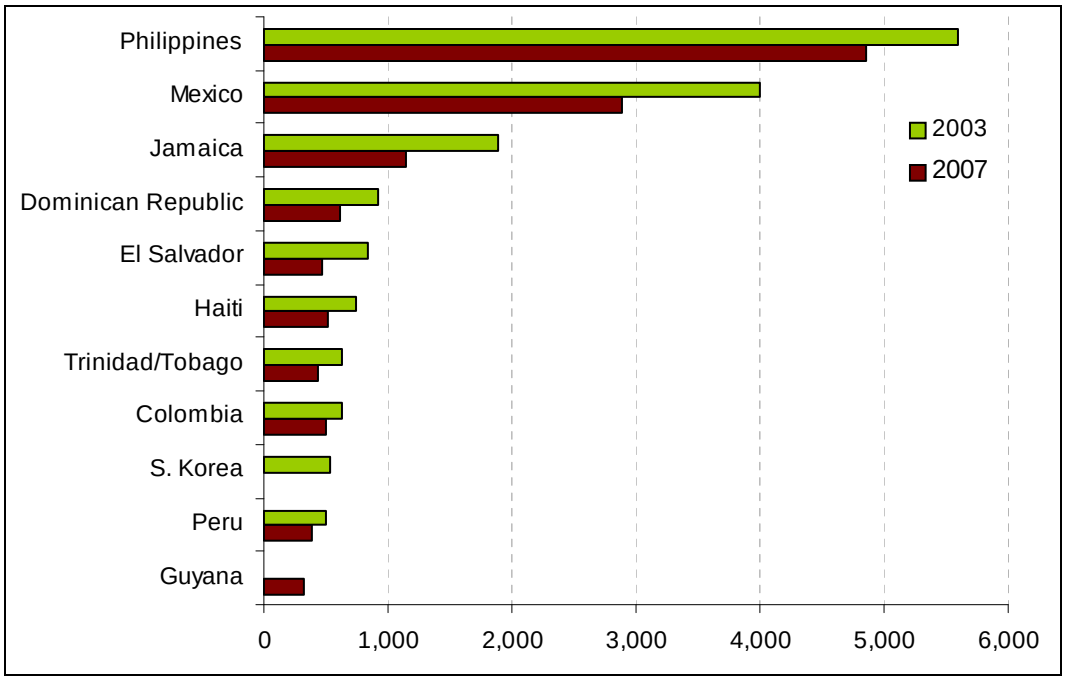
This shift is likely due to several factors, most notably the number of foreign nationals who became citizens since 2003 and a deplenished number of foreign nationals eligible to serve.

[23] §2(a) of P.L. 101-249, 104 Stat. 94 (1990).

[24] These DOD data are approximate since current citizenship status is not reported for every service member. The data are from the DRS #17612 Active Duty Master Files and Reserve Duty Master Files.

Foreign nationals from the Philippines appear to comprise the largest single country of citizenship for aliens in the armed forces in 2007, although the DOD does not have native country data for about 25,000 foreign nationals in the military and does not have citizenship data for almost 22,000 foreign nationals in the military.[25] Mexico is the second largest source country, followed by Jamaica, Dominican Republic, and Haiti. The top ten source countries are rounded out by Colombia, El Salvador, Trinidad and Tobago, Peru, and Guyana, as **Figure 3** depicts. These may be compared with the countries of citizenship for foreign nationals in the Armed Forces in 2003. Then, as in 2007, foreign nationals from the Philippines comprised the largest single country of citizenship for aliens in the Armed Forces, although the DOD did not have citizenship data for about 11,000 foreign nationals in the military. Mexico was the second largest source country, followed by Jamaica, El Salvador, and Haiti. The top ten source countries were rounded out by Trinidad and Tobago, Colombia, South Korea, and Peru.

Figure 3. Top Ten Countries of Countries of Citizenship for Noncitizens in the U.S. Armed Forces

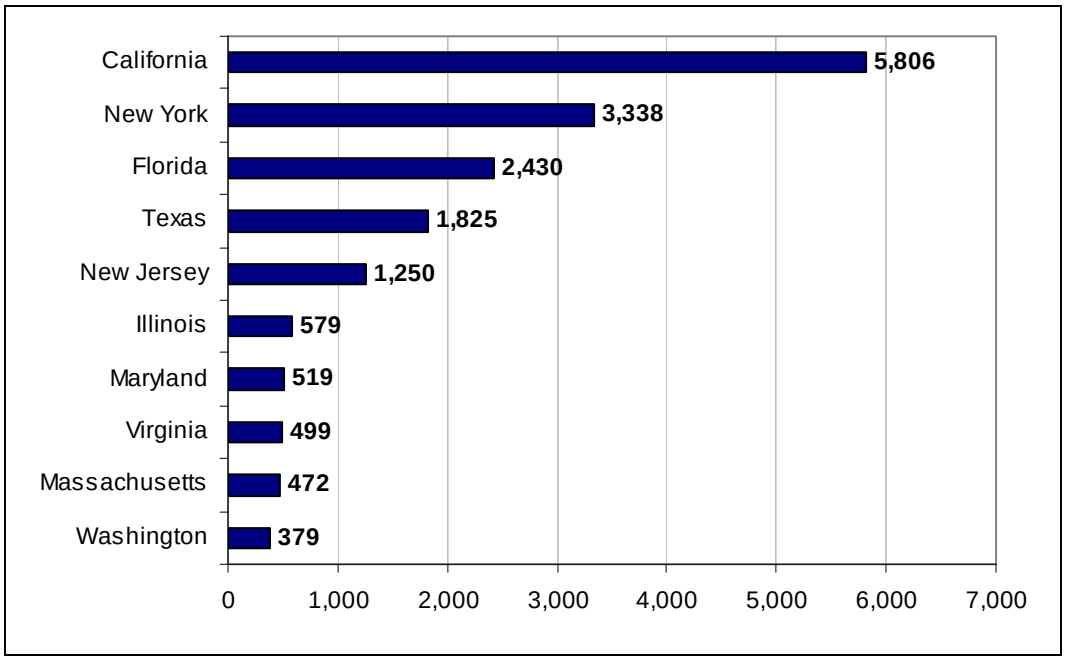


Source: CRS analysis of DOD data as of November 2007.

As one might expect given the distribution of foreign born in the United States, California leads as the accession location state—13.90% of all aliens in the military. New York (7.99%), Florida (5.82%), and Texas (4.37%) follow. As **Figure 4** presents, the remainder of the top 10 states are New Jersey, Illinois, Maryland, Virginia, Massachusetts, and Washington. The state that is the accession location is not necessarily the state in which the alien has resided for the longest period of time or where his or her family lives. The accession location state is the place where the alien's unit is located. **Appendix A** lists the number of aliens whose unit is located in each state.

[25] It is unclear what accounts for this substantial under-reporting of citizenship status; it may be due in part to foreign nationals in the military who have petitions pending with USCIS as well as foreign nationals who are part of households with mixed immigrant and citizenship statuses.

Figure 4. Top Ten States of Noncitizens in the U.S. Armed Forces, 2006



Source: CRS analysis of DOD data as of January 2006.

Current Law

There are currently two sections of the INA that provide for expedited naturalization based on military service, during peace time and during war time ("a period of hostilities"), and one section that provides for posthumous naturalization based on military service. Another provision permits the immediate relatives of a U.S. citizen who died as a result of active-duty service during a period of hostilities to be naturalized without being subject to any specific required residency or physical presence in the United States. These provisions are discussed below. A USCIS fact sheet on military naturalizations (March 16, 2008) is available at http://www.uscis.gov/files/article/mil_natz_051608.pdf.

Naturalization Through Service During Peacetime

Section 328 of the INA (8 U.S.C. §1439) provides for expedited naturalization through military service during peacetime. The current administrative view is that service does not have to be in active-duty status and may include service in an inactive reserve unit, including a federally recognized National Guard organization.[26] Fees for naturalization are waived based on this provision. The following conditions apply to naturalization under this provision:

- The applicant must have served at least one year (three years before P.L. 108-136) in aggregate and must file the naturalization application while still in the service or within six months of leaving the service.

[26] USCIS Interpretations §328.1(b)(4)(iii).

- There must be current honorable service or a subsequent honorable discharge. Naturalization may be revoked if the service member is discharged under other than honorable conditions before serving honorably for a five-year period in aggregate (unlike §329, before P.L. 108-136, this section did not provide for discretionary revocation in the event of discharge under other than honorable conditions).
- The usual specified periods of residence or physical presence in the United States, a state, or immigration district are not required in order to file an application. No current residence within a particular state or immigration district is required.
- Other naturalization requirements must be satisfied, including good moral character, allegiance to the United States and its Constitution, knowledge of civics and English, etc.
- Lawful admission to permanent residence, as required under the INA for naturalization, may occur before, during, or after the qualifying military service; however, current enlistment requirements permit only a citizen or LPR to enlist.
- The provision of 8 U.S.C. §1429 prohibiting naturalization of a person subject to a final order of removal is waived.
- Where qualifying military service periods were not continuous, the requirements for naturalization, including residency, must be proved for any non-service intervals within five years before the date the naturalization application was filed.

Naturalization Through Active-Duty Service During Hostilities

Section 329 of the INA (8 U.S.C. §1440) provides for expedited naturalization through U.S. military service during designated periods of hostilities. The periods of hostilities designated in the statute or by executive order pursuant to the statute include World War I, World War II, the Korean War, the Vietnam War, the Persian Gulf Conflict, and the so-called War on Terrorism; as noted above, the Grenada campaign was briefly designated and the designation revoked pursuant to a court holding of unconstitutionality. Fees for naturalization are waived. The conditions for eligibility include the following:

- The applicant must have served in active-duty status in the U.S. Armed Forces or in the Selected Reserve of the Ready Reserves during a designated period of hostilities. No specified period of service is required prior to application.
- There must be honorable service and discharge. Naturalization *may* be revoked if the service member is discharged under other than honorable conditions before the person has served honorably for an aggregate period of *five years*, but such revocation arguably raises constitutional issues (before P.L. 108-136, naturalization under this section could be revoked if the service member was discharged under other than honorable conditions *at any time* after naturalization).
- No specified period of residence in the United States prior to application is required. No current residence or physical presence within the United States, a particular state, or immigration district is required.

- Other naturalization requirements must be satisfied, including good moral character, allegiance to the United States and its Constitution, knowledge of civics and English, etc.
- The service member must have either (1) been in the United States or a U.S. territory or on board a U.S. public vessel at the time of enlistment, whether or not the enlistee was a LPR, or (2) been admitted as a LPR after enlistment.
- The provision of 8 U.S.C. §1429 prohibiting naturalization of a person subject to a final order of removal is waived.
- An applicant may be naturalized regardless of age (i.e., a minor serving in the military may naturalize of his/her own accord under this provision).

Section 3 of P.L. 90-633, 82 Stat. 1344 (1968), found at 8 U.S.C. §1440e, waives the fees for a naturalization application made under §329 of the INA based on active-duty service during the Vietnam War or subsequently designated periods of hostilities, but only if such application is made during the period of hostilities.[27] This waiver appears to date back to a World War I statute that waived fees during wartime for applications based on military service during that war. P.L. 108-136 amended INA §329 to prohibit fees for naturalization under that section; however, 8 U.S.C. §1440e was not repealed.

The definition of "active-duty" under this provision is determined by the service branch of the Armed Forces in which the noncitizen served, pursuant to the statutory definition in Title 10 of the U.S. Code, concerning the Armed Forces.[28] According to this definition, "active-duty" does not include inactive service in a reserve unit or inactive or non-federalized active service in a National Guard unit.[29] Active-duty service need not be in a combatant capacity.[30] The service branch also determines whether the service was honorable and whether the applicant was honorably discharged. The service branch provides a duly authenticated certification of the relevant particulars of the applicant's military service.

Posthumous Naturalization Through Active Duty Service

Section 329A of the INA (8 U.S.C. §1440-1) provides for posthumous naturalization where death resulted from serving while on active-duty during World War I, World War II, the Korean War, the Vietnam War, or other designated periods of hostilities. Before this addition to the INA, posthumous citizenship could only be granted via the enactment of private legislation. As originally enacted, the next-of-kin or other representative had to file a request for posthumous citizenship within two years of the date of enactment (March 6, 1990) for past hostilities or of the death of the noncitizen member of the Armed Forces for periods of hostilities after the date of enactment. Many persons who would have requested posthumous citizenship for an eligible individual did not learn about this provision until after the deadline regarding persons who died during past hostilities, and legislation was enacted in the 107th Congress to extend the deadline.[31]

[27] *See also* INA §344(d), codified as amended at 8 U.S.C. §1455(d).

[28] 10 U.S.C. §101(d).

[29] For more information on the reserve components, see CRS Report RL30802, *Reserve Component Personnel Issues: Questions and Answers*, by (name redacted).

[30] USCIS Interpretations §329.1(c)(4)(iv).

[31] P.L. 107-273, §11030, 116 Stat. 1836 (2002).

P.L. 108-136 further expedited the procedures. The conditions for a posthumous grant include the following:

- The deceased must have served honorably in an active-duty status in the U.S. military during World War I, World War II, the Korean War, the Vietnam War, or other designated periods of hostilities under §329 of the INA.
- Death was a result of injury or disease incurred in or aggravated by service during a period of hostilities.
- The deceased must have either (1) been in the United States or a U.S. territory or on board a U.S. public vessel at the time of enlistment, whether or not the enlistee was a LPR, or (2) been admitted as a LPR after enlistment.

A request for posthumous citizenship may be filed by the Secretary of Defense or the Secretary's designee (after locating the next-of-kin and at their request) or by the next-of-kin or other representative.[32] The USCIS/DHS shall approve such a request if:

- The request was filed by November 24, 2005, or is filed within two years of the death of the service member, whichever is later.
- The service branch under which the person served certifies that the person served honorably in an active-duty status during a designated period of hostilities and died because of such service.
- The USCIS finds that the person either enlisted in the United States or its territories or on board a U.S. public vessel or was admitted as a LPR after enlistment.

Documentation of a posthumous grant of citizenship is sent to the next-of-kin or representative who requested the grant. Essentially, posthumous citizenship is a symbolic honor accorded noncitizens who gave their lives in defense of the United States and has no automatic substantive effect per se on the immigration status of surviving family. However, provisions in P.L. 108-136 extended benefits to the surviving family members of service members who died as a result of active duty service during a period of hostilities. There is no fee for a posthumous citizenship application.

Immigration Benefits for the Family of Military Personnel

Prior to P.L. 108-136, INA §319(d) (8 U.S.C. §1430(d)) provided for the naturalization of the surviving spouse of a U.S. citizen who died while serving honorably in an active-duty status in the Armed Forces of the United States. The spouse and U.S. citizen service member must have been living in marital union at the time of the citizen's death. All the other usual requirements for

[32] The "next-of-kin" and "other representative" are both defined in current regulations. The next-of-kin means the closest surviving blood or legal relative of the decedent in the following order of succession: 1) the surviving spouse; 2) the surviving child or children if there is no surviving spouse; 3) the surviving parent(s) if there is no surviving spouse or child; 4) the surviving siblings if there is no surviving spouse, child, or parent. Other representative includes the following: 1) the executor or administrator of the decedent's estate, including a special administrator appointed for the purpose of requesting posthumous naturalization; 2) the guardian, conservator or committee of the next-of-kin; 3) a service organization listed in 38 U.S.C. §3402, chartered by Congress or a State, or recognized by the Department of Veterans Affairs. 8 C.F.R. §392.1.

naturalization applied except that no prior residency or physical presence in the United States, a state, or immigration district was required to file a naturalization application.

Section 1703 of P.L. 108-136, Div. A, expanded the scope of the naturalization benefit to the children and parents of a U.S. citizen who dies during a period of honorable service in an active duty status in the U.S. Armed Forces and expressly included service members who died on or after September 11, 2001, and were granted posthumous citizenship. This provision also extended other benefits to surviving immediate relatives, codified at notes under 8 U.S.C. §1151. The surviving spouse, children and parents of a U.S. citizen who served honorably in an active duty status in the U.S. Armed Forces and died as a result of injury or disease incurred in or aggravated by combat may self-petition as immediate relatives within two years of the citizen's death and adjust status to lawful permanent residency. The parent of such a citizen may be considered an immediate relative regardless of whether the citizen had attained 21 years of age. Certain immigration benefits are also available to the spouses, children, and parents of aliens who served honorably in an active duty status in the U.S. Armed Forces, died as a result of injury or disease incurred in or aggravated by combat, and were granted posthumous citizenship. They may continue to be considered immediate relatives if a family petition was filed by the alien before his/her death; self-petition for classification as a family-based immigrant within two years of either the date of the service member's death or the date on which posthumous citizenship is granted (exactly which is unclear) if such petition was not filed before the alien's death; and adjust status to lawful permanent residency. Certain grounds of inadmissibility are waived for these purposes.

See section *Legislation in the 110th Congress*, *infra*, for a discussion of recently enacted laws benefitting the family of military service members.

Other Relevant Laws and Issues

Naturalization Restrictions

Those who have requested exemption from selective service registration or a draft, or discharge on grounds of alienage or noncitizenship,[33] are generally barred from naturalization.[34] Those who have deserted from the Armed Forces or evaded the draft are also explicitly barred from naturalization;[35] they may possibly be otherwise barred for failing to satisfy the requirement of

[33] Between 1918 and 1971, selective service laws permitted any alien to request exemption from military service obligation in exchange for permanent ineligibility to naturalize, which persisted even if the alien subsequently changed his mind and served honorably in the U.S. Armed Forces during a period of hostilities. In 1971, the laws were amended to permit only nonimmigrant aliens to be exempt. Additionally, treaties between the United States and certain countries exempt each country's nationals from military service in the other country. See 8 C.F.R. Part 315; Charles Gordon, et al., *Immigration Law and Procedure*, §95.04[2][e] (2007); Captain Samuel Bettwy, *Assisting Soldiers in Immigration Matters*, 1992 Army Law. 3, 10 (1992).

[34] INA §315 (8 U.S.C. §1426). According to USCIS Interpretations 329.1(d), the administration formerly interpreted this section as barring naturalization even where the federal government initiated the discharge and the service was otherwise honorable. However, the USCIS now follows the holding in *In re Watson*, 502 F. Supp. 145 (D.D.C. 1980), that the disqualification does not apply where the federal government, not the alien, sought the discharge on alienage grounds for its convenience. In this case, a nonimmigrant alien was mistakenly permitted to enlist in the National Guard and was eventually discharged when the error was discovered, despite having served on active-duty during the Vietnam War period.

[35] INA §314 (8 U.S.C. §1425).

good moral character or for being dishonorably discharged or disciplined, which would tend to show lack of good moral character.[36] The bar is permanent, and even if a draft evader subsequently enlists and serves honorably, he is barred absent an act of Congress or a grant of amnesty by the President removing the bar.[37] Similarly, a conviction for desertion would have to be vacated or pardoned in some manner to remove the naturalization bar.[38]

Restrictions on Alienage in the Armed Forces

Although under federal statutes and regulations LPRs may enlist in the active and reserve forces of the military,[39] there are certain restrictions with regard to reenlistment and eligibility for certain ranks and occupations. By statute, only U.S. citizens are eligible for certain officer commissions.[40] Additionally, positions requiring security clearance are generally restricted to U.S. citizens. The major exception to the citizenship restrictions concerns citizens of the Federated States of Micronesia or the Republic of the Marshall Islands, who may serve in the U.S. Armed Forces pursuant to the Compacts of Free Association between the United States and those countries, under which the United States provides for the defense of those countries;[41] since those countries do not maintain their own armed forces, their citizens who serve in the U.S. Armed Forces in effect are serving in the defense of their own countries. Additionally, the Secretary of the relevant service branch may authorize the enlistment of other aliens if the Secretary determines that it is vital to the national interest. On December 5, 2008, the Secretary of Defense authorized a pilot program (called Military Accessions Vital to the National Interest (MAVNI)) for the recruitment and enlistment of certain nonimmigrant aliens, asylees, refugees, and aliens with temporary protected status, whose skills are considered to be vital to the national interest.[42] Those with critical skills – physicians, nurses, and certain experts in language with associated cultural backgrounds – would be eligible. To determine its value in enhancing military readiness,

[36] Bettwy, *supra* note 33, at 14.

[37] Charles Gordon et al., *supra* note 33, at §95.04[2][d]; Bettwy, *supra* note 33, at 10-11.

[38] Bettwy, *supra* note 33, at 11.

[39] 10 U.S.C. §§504 and 12102; see also DOD Instruction No. 1304.26, E2.2.2.1 & E2.2.2.2 (September 20, 2005) (hereafter cited as DOD Instruction). The statutes concern enlistment in the Army, Air Force, and Reserve components. Although no statute restricts enlistment to citizens and LPRs in the Navy and Marine Corps, they usually apply similar citizenship requirements; see Department of the Navy, COMNAVCRUITCOMINST 1130.8F, *Navy Recruiting Manual-Enlisted*, Chapter 2D (March 11, 2002), and MCO P1100.72C, *Military Procurement Manual, Vol. 2, Enlisted Procurement*, §3221 (February 10, 2004).

[40] 10 U.S.C. §§532, 12201; see also, DOD Instruction at E2.2.2.3. U.S. citizenship is required to be a commissioned or warrant officer, except for a reserve appointment, for which a person must have LPR status. National Guard officers must be U.S. citizens under 32 U.S.C. §313. 10 U.S.C. §532(f) authorizes the Secretary of Defense to exempt LPRs and U.S. noncitizen nationals from this requirement if national security requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.

[41] Section 341 in each of the following: the Compact of Free Association between the Federated States of Micronesia and the United States, P.L. 108-188, §201(a), 117 Stat. 2784 (48 U.S.C. 1921 note); the Compact of Free Association between the Republic of the Marshall Islands and the United States, §201(b), 117 Stat. 2823 (48 U.S.C. 1921 note); the Compact of Free Association between Palau and the United States, P.L. 99-658, §201, 100 Stat. 3678 (48 U.S.C. 1931 note). Also see, Department of the Army, Regular Army and Army Reserve Enlistment Program/Army Regulation 601-210, §2-4.a(4) (June 7, 2007) (hereinafter 2007 Army Regulation 601-210).

[42] See news release at http://www.defenselink.mil/releases/release.aspx?releaseid=12384 and fact sheet at http://www.defenselink.mil/news/MAVNI-Fact-Sheet.pdf. See also the USCIS final rule, *Employment Authorization and Verification of Aliens Enlisting in the Armed Forces*, 74 Fed. Reg. 7993 (Feb. 23, 2009) (extending employment authorization and verification to aliens enlisting under the MAVNI program) and Margaret D. Stock, *Ten Things That Immigration Lawyers Should Know About the Army's New Non-Citizen Recruiting Program*, available at http://drop.io/hf4xwak/asset/stock-mavni-2-22-09-pdf#.

the limited pilot program is to recruit up to 1,000 people, and will continue for a period of up to 12 months.

Certain occupations requiring security clearance such as intelligence operations and special forces, require U.S. citizenship,[43] in some instances, not just of the service member, but of immediate family members;[44] dual citizenship is a negative or prohibitive factor.[45] Until recently, some service branches restricted the amount of time that a noncitizen could serve.[46]

The Air Force restricts noncitizens to one term of enlistment: they cannot reenlist unless they have become a citizen, but an extension of the original enlistment is available to an airman who has filed an application for naturalization.[47] The extension may not exceed the earlier of (1) six months or (2) the date of the expected naturalization ceremony plus 30 days. However, additional extensions may be granted.

Apparently there are no explicit statutory or regulatory restrictions on reenlistment in the Navy or the Marine Corps.

Although it is a component of the Armed Forces,[48] the Coast Guard is not generally under the jurisdiction of the DOD, but rather formerly under the Department of Transportation and now under DHS, which promulgates the regulations governing enlistment. As a component of the Armed Forces, the Coast Guard is subject to the uniform enlistment statute regarding citizenship and LPR restrictions.[49] The Coast Guard regulations require U.S. citizenship or LPR status for enlistment;[50] an alien must have become a naturalized citizen to reenlist.[51] Nonimmigrants may not enlist. LPRs with any prior military service may not enlist; this restriction may not be waived. Noncitizens in the Coast Guard are not eligible to be officers.[52] Although the current Coast Guard security manual concerning security clearance apparently does not expressly require U.S. citizenship, it refers to federal mandated guidelines and to the manual's explicit compliance with federal guidelines and provides that in cases of apparent conflict between the manual and statutes,

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[43] See DOD Directive 5200.2, DOD Personnel Security Program, §§3.4 and 3.6 (April 9, 1999) and generally DOD 5200.2-R, Personnel Security Program Regulation (January 1, 1987), issued under DOD Directive 5200.2.

[44] 2007 Army Regulation 601-210, §5-56; Department of the Army, Personnel Security Program/Army Regulation 380-67, §3-501 (September 9, 1988).

[45] 32 C.F.R. §§154.7(f), 154.16(f), Part 154, Appendix H, Guideline C; see e.g., 2007 Army Regulation 601-210, §2-4.e.

[46] Formerly, the Army limited a service member to eight years of service in noncitizen status. If a person reached the eight-year limit by the end of the current term of enlistment, that person was barred from reenlisting. Department of the Army, formerly at Regular Army and Army Reserve Enlistment Program/Army Regulation 601-210, §§2-4.*a*.(5), 3-4.*b* (February 28, 1995); rescinded in the June 7, 2007, version. The enlistment term could be extended for a maximum of 12 months to allow the service member sufficient time to complete naturalization procedures, but not more than 90 days beyond the expected date of the naturalization ceremony. Formerly at Department of the Army, Army Regulation 601-280, *Army Retention Program*, §4-9.*k* (March 31, 1999); substance deleted from current version (June 31, 2006).

[47] Secretary of the Air Force, Air Force Instruction 36-2606, *Reenlistment in the United States Air Force*, paragraphs 3.12, 4.5.4 (November 21, 2001).

[48] 10 U.S.C. §101(a)(4).

[49] 10 U.S.C. §504.

[50] U.S. Coast Guard of the DHS, Coast Guard Recruiting Manual (COMDTINST M1100.2E) §2.B.1.d and Table 2-2 (June 22, 2006). (Hereinafter cited as CG Recruiting Manual).

[51] U.S. Coast Guard of the DHS, Coast Guard Personnel Manual (COMDTINST M1000.6A) §1.G.5.5 (June 18, 2007). This does not apply to a service member who originally enlisted from the Philippines.

[52] U.S. Coast Guard of the DHS, Coast Guard Recruiting Manual (COMDTINST M1100.2E) §4.B.1.f (June 22, 2006).

law enforcement practices, and other regulations, the latter regulations shall apply and the Commandant should be advised of the apparent conflict for resolution.[53]

Despite the foregoing restrictions, nonimmigrant and even undocumented (i.e., "illegal") aliens have apparently enlisted in the military at times when they were not authorized to enlist.[54]

Expedited Naturalization for Extraordinary Contributions to National Security

Although not enacted to benefit U.S. military service members, expedited naturalization for extraordinary contributions to national security under 8 U.S.C. §1427(f) may have relevance in the context of aliens who provide valuable military intelligence during the so-called War on Terrorism. Legislative history indicates that this provision is primarily intended to benefit those aliens who have provided invaluable intelligence in the course of a long-term relationship with the United States.[55] This provision permits a maximum of five aliens per year to be naturalized upon a determination by the Director of National Intelligence/Director of the Central Intelligence Agency, the Secretary of Homeland Security, and the Director of USCIS[56] that such aliens have made an extraordinary contribution to national security or intelligence activities. The Director of National Intelligence/Director of the Central Intelligence Agency must inform the congressional committees on Intelligence and the Judiciary prior to the filing of an application under this provision. The usual residence and physical presence requirements are waived, but the alien must be otherwise eligible for naturalization and have continuously resided in the United States for one year prior to naturalization. The alien must also not have participated in persecution, serious crimes, or terrorism, or be a danger to the security of the United States. The naturalization ceremony may take place in any federal district court regardless of residency, and the conduct of naturalization proceedings must be consistent with the protection of intelligence activities.

Special Immigrant

Section 101(a)(27)(K) of the INA (8 U.S.C. §1101(a)(27)(K)) defines "special immigrant" as including an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on the date of the enactment of this subparagraph, October 1, 1991) for a period or periods aggregating (1) 12 years and who, if separated from such

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[53] U.S. Coast Guard of the DHS, Personnel Security and Suitability Program (COMDTINST M5520.12C) preamble §4.c & d (December 17, 2007).

[54] E.g., *In re Watson*, 502 F. Supp. 145 (D.D.C. 1980), *supra* note 34, involving a nonimmigrant mistakenly permitted to enlist in the National Guard, contrary to enlistment rules.

[55] See H.Rept. 99-373, at 22 (1985)—

> The conferees expect that the authority provided by Subsection 316(g) will be used to reward those aliens who for a significant time have maintained a relationship with the United States. Only in rare instances should expedited citizenship be afforded to defectors with no previous relationship with the United States, and only after careful scrutiny should the promise of expedited citizenship be offered as an inducement for future services.... The conferees emphasize that private immigration legislation remains the preferred method for processing exceptions to [the INA].... the Executive Branch should, in each case, determine whether a private bill or use of the waiver authority provided for in subsection 316(g) is most appropriate.

[56] This statute still refers to the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration, although these positions have either been renamed or have had functions transferred pursuant to statutory amendments.

service, was never separated except under honorable conditions, or (2) six years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status and who has reenlisted to incur a total active duty service obligation of at least 12 years. This provision also includes the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant. Such special immigrants may be paroled into the United States and adjust status; given the length of service, even under peace-time military naturalization provisions, service members who are special immigrants in this category would likely qualify for naturalization. According to immigration authorities, this provision benefits nationals of the Philippines, Micronesia, the Marshall Islands, and Palau, all of which have the type of agreement to which the statute refers, and apparently primarily benefits Philippine nationals in the U.S. Navy.[57]

Legislative Issues

Legislative History

The following overview of legislative activity since the beginning of the War on Terrorism on September 11, 2001, may provide guidance for future legislation based on the types of legislation that have been considered but have not yet been enacted, as well as those that have already been enacted. There continues to be congressional interest in further streamlining and expediting the naturalization process for military personnel and in providing immigration benefits specifically for immediate relatives of such personnel.

P.L. 108-136

P.L. 108-136, the Defense Department FY2004 Authorization bill (H.R. 1588), was the culmination of congressional efforts begun in the 107th Congress. During the 107th Congress, there was renewed legislative interest in amending the various naturalization provisions based on military service as a result of the Bush Administration's launching of the War on Terrorism, the campaign in Afghanistan, and the prospect of an armed confrontation in Iraq. This interest continued in the 108th Congress and developed momentum in the wake of Operation Iraqi Freedom.

Of the many bills introduced during the 108th Congress that contained provisions concerning expedited or posthumous citizenship as the result of military service, H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004, became P.L. 108-136 on November 24, 2003. Title XVII of H.R. 1588, entitled "Naturalization and Other Immigration Benefits for Military Personnel and Families," amended existing military naturalization statutes by:

- reducing the period of service required for naturalization based on peacetime service from three years to one year;

[57] Charles Gordon et al., *supra* note 33, at §35.10, *State Dept. Authorizes Special Immigrant Status for Members of Armed Forces*, 68 Interpreter Releases 1572 (1991).

- waiving fees for naturalization based on military service during peacetime or wartime;
- permitting discretionary revocation of naturalization granted on or after the date of enactment through peacetime or wartime service if the citizen were discharged from military service under other than honorable conditions before serving honorably for an aggregate period of five years;
- permitting naturalization processing overseas in U.S. embassies, consulates, and military bases;
- providing for priority consideration for military leave and transport to finalize naturalization;
- extending naturalization based on wartime service to members of the Selected Reserve of the Ready Reserve.

Additionally, the Secretary of Defense or the Secretary's designee within the USCIS is authorized to request posthumous citizenship immediately upon obtaining permission from the next-of-kin.

The law also expanded immigration benefits available to the immediate relatives of citizens, including posthumous citizens, who die from injuries or illnesses resulting from or aggravated by serving in combat. Such relatives may remain classified as immediate relatives of a U.S. citizen for immigration purposes, notwithstanding the death of the service member, and can self-petition for immigrant status. To qualify for such treatment, immediate relatives must self-petition within two years of the date of the service member's death or, in the case of posthumous citizens, within two years of the date on which posthumous citizenship is granted.[58] Certain adjustment requirements and the public charge grounds for inadmissibility are waived. Children and parents, as well as spouses, of U.S. citizens who died during honorable active-duty service are eligible to naturalize without prior residence or a specified period of physical presence in the United States. This includes survivors of posthumous citizens who died on or after September 11, 2001.

References to the Attorney General in the relevant sections of the INA Act were changed to references to the Secretary of Homeland Security. The effective date of the provisions is retroactive to September 11, 2001, except for the fee waivers and provision for naturalization proceedings abroad, which took effect on October 1, 2004.

Subsequent Legislation in the 108th Congress

After the enactment of P.L. 108-136, other bills were introduced that would have further expedited naturalization based on military service or linked military service to immigration benefits. H.R. 4873, the Active Duty Naturalization Accommodation Act of 2004, would have provided additional flexibility in the naturalization process to enable applicants in active-duty status abroad to satisfy the procedural requirements. Any requirement or deadline for naturalization would have been suspended for a service member stationed abroad in active duty service, until the service member had had at least 30 days after his or her return to the United States to comply with the requirement or deadline. This relief could have been waived by the service member. Similar relief would have been retroactive for those service members who were stationed abroad in active duty service between September 11, 2001, and the effective date of

[58] USCIS Adjudicator's Field Manual, §21.11(a)(2)(A)(ii) and 21.11(a)(2)(B).

H.R. 4873, had it been enacted. H.R. 3928/H.R. 4532 would have permitted U.S. nationals, that is, non-citizen nationals (American Samoans) to attend military service academies and receive Reserve Officers' Training Corps (ROTC) scholarships on condition that they naturalize before graduation. S. 1545 and title XVIII of S. 2863, the Development, Relief, and Education for Alien Minors Act of 2007 (the DREAM Act), would have provided that two years of military service may satisfy one of the requirements for achieving full-fledged LPR status after being in conditional LPR status.

Legislation in the 109th Congress

Section 542 of P.L. 109-163[59] amended 10 U.S.C. 504 and repealed 10 U.S.C. §§3253, 8253 to establish uniform standards for enlistment in the several Armed Forces service branches. Aside from LPRs, the only foreign nationals permitted to enlist are nationals of the former Trust Territories, Micronesia, the Marshall Islands, and Palau, which all have Compacts of Free Association with the United States providing that the United States will provide defense for those countries and that their nationals may enlist in the U.S. defense forces. The Secretary of the relevant service branch may authorize the enlistment of others if the Secretary determines that such enlistment is vital to the national interest.

Sections in Title VII of the Comprehensive Immigration Reform Act of 2006 (S. 2611/S. 2612) as passed by the Senate would have built on the expansion of expedited naturalization and other citizenship-related benefits for aliens serving in the U.S. military enacted by Title XVII of P.L. 108-136. Among other things, §§711 to 715, the Kendell Frederick Citizenship Assistance Act, would have waived the fingerprint requirement for members of the Armed Forces who were fingerprinted by the DOD upon enlistment if they submit a naturalization application within 12 months of enlistment. Similar legislative proposals included other versions of the Kendell Frederick Citizenship Assistance Act (H.R. 4533, S. 2097, S. 2165) and the Soldiers to Citizens Act (S. 3947). Section 751 of S. 2611/S. 2612 would have provided that aliens shall not be denied the opportunity to serve in the U.S. Armed Forces, and that, during a period of hostilities, aliens may be granted U.S. citizenship after at least two years of honorable and satisfactory service on active duty and have other requirements waived, if they file an application, demonstrate English and civics knowledge and good moral character to their chain of command, and take the oath of allegiance. Similar legislative proposals were included in the Soldiers to Citizens Act (S. 3947) and the Riayan Tejada Memorial Act of 2005 (H.R. 661, based on service in a combat zone). The Bruce Vento Hmong Veterans' Naturalization Act of 2005 (H.R. 3018) would have amended the Hmong Veterans Naturalization Act of 2000 by eliminating the deadline for applying for naturalization.

H.R. 3911 would have further expedited military-service-based naturalization during peacetime by providing that the requirements for English and civics knowledge, good moral character and allegiance to the United States and its constitutional principles do not apply; by eliminating any required specific period of service; and by permitting a veteran to apply for such naturalization at any time, not just within six months of termination of service.

Several bills would have provided immigration benefits to the spouses and children of U.S. citizen military personnel and veterans. In addition to provisions expediting military naturalizations, H.R. 661 would have provided certain immigration benefits for the spouses

[59] Div. A, §542, 119 Stat. 3253 (2006).

(regardless of length of marriage), children, and parents of a U.S. citizen who served in a combat zone designated in connection with Operation Iraqi Freedom and died as a result of injury or disease caused by such service. These provisions would have established specific guidelines for the immigration benefits; however, it appears that these were similar to the provisions of §1703 of P.L. 108-136, Div. A, codified as notes to 8 U.S.C. §1151, regarding family-based immigrant petitions and adjustment-of-status applications, and as amendments to INA §319 (8 U.S.C. §1430), which provides that the surviving spouse, child, or parent of a U.S. citizen (including a person granted military-service-based posthumous citizenship) who dies during a period of honorable service in an active duty status in the U.S. Armed Forces may be naturalized upon compliance with all the INA requirements except for the residence and physical presence requirements. However, the provisions of P.L. 108-136 were not limited to survivors of service members who died as a result of combat in Operation Iraqi Freedom, but were extended to survivors of service members who died as a result of service during periods of hostilities.

Section 509 of S. 2611/S. 2612 would have provided that numerical limits on immigrant visas shall not apply to the adult sons and daughters of U.S. citizens naturalized under a statute benefitting Filipino World War II veterans. H.R. 901 would have given priority to the issuance of immigrant visas to the children and adult sons and daughters of these naturalized Filipino World War II veterans. H.R. 4498 would have authorized the case-by-case waiver of certain naturalization requirements for a child adopted outside the United States by military personnel who at the time of adoption was stationed outside the United States.

Legislation in the 110th Congress

Sections 673 and 674 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008 (January 28, 2008), respectively, (1) ensure reentry into the United States by LPRs who are spouses and children accompanying a military service member abroad who might otherwise be deemed to have abandoned their LPR status and (2) provide for the treatment of periods abroad accompanying the service member as periods in the United States for residence and physical presence purposes and also provide for overseas naturalization for such spouses and children.[60]

P.L. 110-251, the Kendell Frederick Citizenship Assistance Act (June 26, 2008)[61] permits the use in military-service naturalization applications of fingerprints taken by the DOD at the time of enlistment, rather than requiring service members to obtain and submit separate fingerprints in accordance with the naturalization requirements of the DHS, provided that the naturalization application was filed within 24 months after enlistment or the fingerprints had been submitted with an application for adjustment to LPR status within 24 months of enlistment. The Secretaries of Homeland Security and Defense are required to cooperate to make fingerprints and other biometric data more accessible for naturalization purposes, by determining a data format, making fingerprints available without charge for naturalization purposes, and otherwise facilitating military naturalizations. Rapid electronic transmission of biometric data is to be implemented within one year of enactment.[62] The Secretary of Homeland Security is to centralize data

[60] The USCIS reported that it conducted the first overseas naturalization of a military spouse in May 2008 and has since naturalized 46 military spouses overseas, at http://www.uscis.gov/files/article/USCIS%20FACT%20SHEET%20%20Naturalization_Process_Military_3feb09.pdf.

[61] Enacted S. 2516; related bill is H.R. 2884 for which the CBO report, dated November 5, 2007, is at http://www.cbo.gov/ftpdocs/87xx/doc8785/hr2884.pdf.

[62] This system apparently is not fully operational. According to the USCIS response to the USCIS Ombudsman Annual (continued...)

processing for military naturalization applications filed by service members serving abroad on active duty. The Secretary of Homeland Security, the Directory of the FBI, and the Directory of National Intelligence are to ensure that military naturalization applications and associated background checks are processed and adjudicated within 180 days of receiving responses to all background checks. The act also requires timely updates to agency websites and application forms after changes to regulations on military naturalization.

Various reports are required under the act. The Secretary of Homeland Security is required to submit a report to the appropriate congressional committees within 120 days of enactment on the entire adjudication process for a military-service-based naturalization application, including a description of (1) the methods used by the DHS and the DOD to prepare, handle, and adjudicate such applications; (2) the effectiveness of the chain of authority, supervision, and training of employees (whether of the federal government or other entities) who have any role in the process; and (3) the ability of the DHS and the DOD to use technology to execute any aspect of the process and to safeguard privacy and civil liberties.[63] The Comptroller General (GAO) and the Inspector General (IG) of the DHS are required to conduct a study, including an assessment of any technology that may be used to improve the efficiency of the military naturalization process and an assessment of the impact of the act on privacy and civil liberties. GAO and the IG are required to submit a report to the appropriate congressional committees on this study, including recommendations for improving implementation of this act, within 180 days of the date on which the report on the adjudication process is submitted by the Secretary of Homeland Security. "Appropriate congressional committees" is defined as including the Senate Committees on Armed Services, Homeland Security and Governmental Affairs, and the Judiciary, and the House of Representatives Committees on Armed Services, Homeland Security, and the Judiciary.

The comprehensive immigration reform bills, S. 1348 (§§711-715 as placed on the Senate calendar), S. 1639 (§701, as placed on the Senate calendar), and H.R. 1645 (§§711-715, as introduced), also contained versions of this legislation. S. 1348 and H.R. 1645 would also have provided for a dedicated toll-free telephone information service to assist military service members with military-service-based naturalization.

The issue of requiring fingerprints from military service members had already been partly addressed by USCIS. The fingerprint requirement is not in the statutes or regulations governing naturalization; rather, it is the practice to submit these to be used in conducting the criminal background check on naturalization applicants. In testimony before the Senate Committee on Armed Forces, Director Emilio Gonzalez of the USCIS noted that USCIS, in collaboration with the DOD and the FBI, had instituted a change in the fingerprinting process permitting U.S. military personnel to sign a release authorizing the use of fingerprints provided at enlistment for

(...continued)

Report 2008, the latest report, the USCIS is analyzing and evaluating its identity management and background check services, including its Biometrics Storage System (BSS) and is developing new functional requirements and development timelines for these systems. 2008 Comprehensive Response to the DHS CIS Ombudsman Report at 3-4 (Sept. 30, 2008), available at http://www.dhs.gov/xlibrary/assets/cisomb-uscis-response-annual-report-fy2008.pdf. The Ombudsman Report noted that case-file digitization and BSS were not fully operational, although they would resolve the difficulties in physical transfer and tracking of files. It also noted some improvements in processing of military naturalizations, but not the use of such systems pursuant to the new statute. USCIS Ombudsman Annual Report 2008, *supra* note 3, at 24-26, 58 (June 30, 2008).

[63] This report was submitted to the appropriate congressional committees on Feb. 10, 2009. The other reports required by this act have not been submitted yet, but the deadlines have not passed.

immigration purposes.[64] However, congressional hearing testimony in 2008 alleged that FBI processing of fingerprints still accounts for significant delays despite the permitted use of DOD fingerprints in lieu of fingerprints taken and submitted in accordance with USCIS procedures for civilians.[65]

P.L. 110-382, the Military Personnel Citizenship Processing Act,[66] expedites certain military service-related applications by establishing a FBI liaison office in USCIS to monitor the completion of FBI background checks and setting a deadline for processing such naturalization applications. The FBI monitoring and the processing deadline apply to naturalization applications filed by or on behalf of: current and former service members based on military service, the spouses of current service members posted abroad, surviving spouses and children of service members who died on active-duty service, and deceased service members eligible for posthumous citizenship. If USCIS cannot meet the deadline, it is required to give the applicant an explanation for the delay and an estimate for the completion date. The Director of USCIS is required to submit to the relevant congressional oversight subcommittees annual reports identifying every application covered by these statutory requirements that is not processed and adjudicated within one year after filing due to delays in required background checks. Within 180 days of enactment, the Comptroller General must submit to Congress a report regarding the average length of time taken by USCIS to process and adjudicate applications for naturalization filed by or on behalf of members of the U.S. Armed Forces, deceased members of the Armed Forces, and their spouses and children. The act and amendments made by the act to current law sunset five years after the date of enactment (October 9, 2013).

Although not directly involving military service, with regard to the naturalization of LPRs originally admitted into the United States as special immigrant Iraqi or Afghani translators or interpreters, P.L. 110-36[67] provides that time spent abroad as a translator or interpreter for the U.S. Department of State or Armed Forces shall not be considered to break any period for which continuous residence in the United States is required for naturalization.

Aside from these public laws, there were several notable bills introduced in the 110th Congress. The *Immigration Needs of America's Fighting Men and Women* was the subject of a May 2008 hearing by the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, and was the focus of H.R. 6020, a bill to further facilitate and expand immigration benefits for military service members and their families. H.R. 6020, the Lance Corporal Jose Gutierrez Act of 2008, was reported by the House Judiciary Committee and placed on the calendar in October 2008.

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[64] Testimony at a hearing on "Contributions of Immigrants to the U.S. Military" on July 10, 2006, available at http://armed-services.senate.gov/statemnt/2006/July/Gonzalez%2007-10-06.pdf. This policy change apparently was in response to recommendations made by the USCIS Ombudsman in March 2006, as described in USCIS Ombudsman, Annual Report 2006 at p. 73 (submitted to the Congressional Committees on the Judiciary on June 19, 2006).

[65] Response of Margaret D. Stock, Attorney and Lieutenant Colonel, Military Police Corps, U.S. Army Reserve, to questions at the hearing of the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law on Immigration Needs of America's Fighting Men and Women, May 20, 2008 (transcript of hearing unavailable as of date of this report).

[66] Enacted S. 2840; related bill is H.R. 7057. The Congressional Budget Office (CBO) report for S. 2840, dated May 15, 2008, is available at http://www.cbo.gov/ftpdocs/92xx/doc9275/s2840.pdf.

[67] 121 Stat. 227 (2007), amending the National Defense Authorization Act for FY2006, P.L. 109-163, Div A, §1059, 119 Stat. 3443 (2006).

H.R. 6020 would have expanded the scope of military naturalizations by, *inter alia*, (1) providing that persons who serve honorably in the Armed Forces in support of contingency operations (defined at 10 U.S.C. §101(a)(13)) that are not covered by an executive order designating a period of hostilities would be eligible for naturalization based on INA §329; (2) increasing the period within which a person may file an application under INA §328 (8 U.S.C. §1439) after leaving military service from six months to one year; and (3) eliminating the need to allege satisfaction of certain naturalization requirements during periods when service was not continuous. The bill would have permitted service members who have conditional LPR status to wait until they are discharged from service to apply for removal of the condition and eliminated the requirement that a service member petitioning for removal of the conditional status for an alien spouse, son, or daughter must appear for a personal interview.

The bill would have provided for special consideration in removal proceedings. Removal proceedings could not be initiated against an alien who has served or is serving honorably in the Armed Forces without the approval of the Director of the USCIS or the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement after consideration of certain factors. Aliens who have served or are serving honorably in the Armed Forces would not be subject to expedited removal proceedings or reinstatement of removal orders. Certain inadmissibility or deportation grounds would not apply to aliens who have served or are serving honorably in the Armed Forces or who are the spouse, minor child, adult son/daughter, parent, or minor sibling of a member of the Armed Forces. Other grounds of inadmissibility or deportation (except for certain criminal and national security grounds, alien smuggling, unlawful voting, and parental kidnapping) could be waived at the discretion of the Secretary of Homeland Security or the Attorney General. Certain factors could be considered in the waiver determination.

The bill would have included certain legal admission benefits. Spouses and children of an LPR serving in the Armed Forces would not be subject to the numerical limits on visas for the spouses and children of LPRs, so immigrant visas would be immediately available for them. For undocumented aliens, the status of an alien spouse, minor child, adult son/daughter, parent, or minor sibling of an eligible member of the Armed Forces would be adjusted to that of an LPR if such alien (1) applies for adjustment and is in the United States on the date of filing such application; (2) is admissible as an immigrant; and (3) pays a fee, determined by the Secretary of Homeland Security. Certain grounds of inadmissibility would not apply to such adjustment of status, and certain other grounds could be waived at the discretion of the Secretary of Homeland Security. This benefit would be available for two years after the death of an eligible member of the Armed Forces whose death resulted from injury/disease incurred in or aggravated by his/her service in the Armed Forces. An eligible member of the Armed Forces would include a U.S. citizen who is serving or has served honorably as a member of the Selected Reserve of the Ready Reserve or on active duty in the Armed Forces during the Vietnam War or any period of hostilities subsequently designated by executive order.

S. 1348, one of the comprehensive immigration reform bills, included the DREAM Act (§§621-632) with its provision that two years of military service (honorable discharge if discharged) may satisfy one of the requirements for achieving unconditional LPR status. This would be available to an undocumented alien who has initially been granted conditional LPR status as a person who has been continuously physically present in the United States after initially entering while under the age of 16 years, among other qualifications.

Section 751 of S. 1348 would have amended INA §329 to provide that persons who are not U.S. citizens shall not be denied the opportunity to serve in the U.S. Armed Forces and that, with the

approval of the chain of command, an alien who has performed two years of honorable, satisfactory, active-duty service shall be granted U.S. citizenship without regard to other naturalization requirements, processes, or procedures upon the satisfaction of three conditions. The three proposed conditions were (1) the alien must have filed a naturalization application, (2) the alien must demonstrate English and civics knowledge and good moral character to the military chain of command, consistent with the requirements of the INA, and (3) the alien must take the naturalization oath of allegiance. The alien would be required to be naturalized not later than 90 days after satisfying the requirements of this provision.

H.R. 1745 would have provided immigration benefits to the immediate relatives of an active duty or reserve member of the Armed Forces. It would have waived inadmissibility of such immediate relatives based on misrepresentation of material fact in order to procure an immigration benefit or on a false claim of citizenship for any purpose or benefit under any federal or state law. The bill would also have extended the V nonimmigrant visa to military families. V visas enable the spouses and children of LPRs, who filed family-based immigrant petitions before December 21, 2000, and are awaiting the availability of an immigrant visa, to enter and wait in the United States for the immigrant visa if the petition (or the visa availability, if the petition was approved) has been pending for three years or longer. The bill would have permitted the spouses and children of active duty or reserve military personnel to receive a V visa regardless of when the petition was filed or how long the petition or visa had been pending.

Current Issues

As of the date of this report, there appeared to be no legislation in the 111th Congress concerning immigration benefits related to military service. Although some bills providing such benefits were enacted during the 110th Congress, several issues and proposals remain unresolved and may be addressed during the 111th Congress.

Waiver or DOD Adjudication of Naturalization Requirements

Although P.L. 108-136 and close cooperation between the DOD and USCIS of the DHS appear to have facilitated the naturalization of military service personnel, particularly of those serving abroad, supporters of military service members advocate further streamlining of the process, beyond the provisions enacted in the 110th Congress. Some proposals would make naturalization automatic for persons who are deployed to a combat zone, waiving any requirement for demonstrating good moral character or knowledge of civics or English. Critics of such proposals, although acknowledging the sacrifice and contribution of military personnel in a combat zone, urge caution when considering eliminating substantive requirements such as good moral character. Supporters of such proposals argue that persons serving in the military can be assumed to have a working knowledge of English and that an allegiance to the principles of U.S. government and good moral character can be fairly attributed to persons serving honorably in a combat zone, justifying the waiver of any technical test of civics and English or necessity of demonstrating good moral character independently. Furthermore, supporters argue, once a person is deployed to a combat zone, the timely processing of a naturalization application becomes more urgent.

Other proposals would not waive requirements for good moral character, civics, and English, but would authorize the chain of command in the DOD to determine whether a military service member satisfies these requirements. Proponents assert that the commanding officers of a military

service member would be better able than a USCIS adjudicator to judge whether that service member satisfies the requirements. Opponents note that it would burden military officers with having to learn immigration law and act as immigration adjudicator, and that commanding officers may inadvertently take into account factors that are not relevant to a naturalization adjudication or may even interject personal knowledge and biases in the process.

More limited proposals would permit certain requirements for naturalization processing to be satisfied by equivalent requirements or functions satisfied by the DOD, such as medical physical examinations.

Providing Immigration Benefits for Immediate Relatives

There is currently no special relief from removal nor special consideration for permitting aliens waiting for an immigrant visa to enter or remain in the United States based on whether the alien is an immediate relative of a military service member. Advocates of special immigration benefits for family members of military personnel frame such benefits as consideration extended to the military personnel, to relieve them of anxiety and uncertainty concerning the status of family members while they are on active duty, particularly if they are deployed abroad in a hostile area. Supporters of current law argue that family members should not receive special treatment because they happen to be related to a U.S. military service member. They warn that expansion of removal relief and other immigration benefits to family members would have implications beyond the desire to assist U.S. military personnel.

In addition to the absence of such substantive relief for family members of military service members, there apparently are certain procedural complications or delays. Reportedly, medical examinations required for application for an immigrant visa, for admission to the United States as an immigrant, or for adjustment of status to lawful permanent residence, cannot be performed by most military physicians because they are not recognized by DHS as being qualified to perform such examinations, thus imposing on military families the time and expense of obtaining examinations from DHS-designated physicians.[68] Under INA §232 (8 U.S.C. §1222), 8 C.F.R. § 232.2, and 42 C.F.R. part 34, medical officers of the U.S. Public Health Service and DHS-designated civil surgeons with at least four years of professional experience are authorized to conduct medical examinations of aliens for immigration purposes. Civil surgeons with fewer than four years of experience may be designated at the discretion of DHS. U.S. military physicians with at least four years of professional experience are considered to be civil surgeons for the purpose of physical examinations required by INA §232(b) for special immigrants described in INA §101(a)(27)(K) (8 U.S.C. 1101(a)(27)(K) defining certain aliens who enlisted in the U.S. Armed Forces abroad as special immigrants).[69] Aside from this limited purpose, it appears that military physicians are not considered to be "civil surgeons" for the purpose of conducting immigration-related medical examinations; therefore, legislation would be necessary to mandate that military physicians be considered "civil surgeons" for medical examinations required for the family of service members.

[68] Margaret D. Stock, Attorney and Lieutenant Colonel, Military Police Corps, U.S. Army Reserve, Written Statement submitted at the hearing of the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law on *Immigration Needs of America's Fighting Men and Women*, p. 6, May 20, 2008 [*hereinafter* Stock Written Testimony].

[69] P.L. 102-484, div. A, §1079, 106 Stat. 2514 (1992), codified as amended at notes under 8 U.S.C. §1222.

Prosecutorial Discretion in Removal of U.S. Service Members

Current policy guidelines of U.S. Customs and Immigration Enforcement (ICE) direct that military service be taken into consideration in determining whether prosecutorial discretion should be exercised in favor of any alien subject to removal, particularly an alien eligible for naturalization based on military service.[70] The policy disfavors but does not absolutely preclude initiating and pursuing removal actions against members of the U.S. Armed Forces, and reportedly some ICE officers are doing so.[71] In any case, the policy is not grounded in a statutory requirement; therefore, ICE officials could choose to rescind or modify the policy at their discretion. Legislation would be necessary to make such a policy a permanent part of the immigration statutes and/or to strengthen favorable exercise of discretion or prohibit prosecution of removal proceedings against current or former service members. Proponents of such legislation argue that removal actions unnecessarily subject service members who are likely to be granted military-service-based naturalization to the time, expense, and stress of having to defend against such actions; burden the federal government and U.S. taxpayers with the expense of prosecuting such actions which are likely moot; and undermine the needs and effectiveness of the U.S. Armed Forces when active service members must take time away from their duties to defend against such actions and potentially could be removed.

[70] See Marcy M. Forman, Acting Director of Office of Investigations, ICE, DHS, Memorandum re Issuances of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service (June 21, 2004), available at http://www.bibdaily.com/pdfs/Forman%206-21-04.pdf ("Accordingly, ICE should not initiate removal proceedings against aliens who are eligible for naturalization under sections 328 or 329 of the INA, notwithstanding an order of removal."). See also Doris Meissner, Commissioner of INS, Memorandum re Exercising Prosecutorial Discretion 8, 11 (November 17, 2000) (discussing exercise of prosecutorial discretion in favor of not pursuing removal actions against current or former members of the U.S. Armed Forces and former requirement that INS regional directors approve such actions), and INS, Interim Enforcement Procedures—Standard Operating Procedures for Enforcement Officers: Arrest, Detention, Processing and Removal, § V.D.8 (June 5, 1997).

[71] Stock Written Testimony, *supra* note 68, at 4-5.

Appendix A. Active Duty and Selected Reserve Noncitizen Accession Locations, by State, as of January 2006

State	Total	Percentage of all aliens
Alabama	17	0.04%
Alaska	49	0.12%
Arizona	288	0.69%
Arkansas	18	0.04%
California	5,806	13.90%
Colorado	137	0.33%
Connecticut	284	0.68%
Delaware	26	0.06%
District of Columbia	48	0.11%
Federated States of Micronesia	4	0.01%
Florida	2,430	5.82%
Georgia	264	0.63%
Guam	10	0.02%
Hawaii	361	0.86%
Idaho	49	0.12%
Illinois	579	1.39%
Indiana	65	0.16%
Iowa	62	0.15%
Kansas	61	0.15%
Kentucky	24	0.06%
Louisiana	29	0.07%
Maine	14	0.03%
Marshall Islands	1	0.00%
Maryland	519	1.24%
Massachusetts	472	1.13%
Michigan	121	0.29%
Minnesota	128	0.31%
Mississippi	9	0.02%
Missouri	57	0.14%
Montana	10	0.02%
Nebraska	52	0.12%
Nevada	209	0.50%

State	Total	Percentage of all aliens
New Hampshire	29	0.07%
New Jersey	1,250	2.99%
New Mexico	94	0.23%
New York	3,338	7.99%
North Carolina	104	0.25%
North Dakota	3	0.01%
Northern Mariana Islands	4	0.01%
Ohio	74	0.18%
Oklahoma	68	0.16%
Oregon	127	0.30%
Palau	2	0.00%
Pennsylvania	227	0.54%
Puerto Rico	48	0.11%
Rhode Island	104	0.25%
South Carolina	30	0.07%
South Dakota	8	0.02%
Tennessee	51	0.12%
Texas	1,825	4.37%
Utah	69	0.17%
Vermont	8	0.02%
Virgin Islands	74	0.18%
Virginia	499	1.19%
Washington	379	0.91%
West Virginia	5	0.01%
Wisconsin	89	0.21%
Wyoming	9	0.02%
Unknown	21,039	50.38%
Total	**41,760**	**100.00%**

Source: DOD data as of January 2006.

Appendix B. Active Duty Citizenship Status, by Country of Birth: Top 50 Countries

Country of Birth	US Citizen/National	Non-US Citizen/National	Unknown	Total
Philippines	14,706	4,290	712	19,708
Mexico	4,983	2,433	1,211	8,627
Jamaica	2,909	960	418	4,287
Dominican Republic	1,484	513	214	2,211
Haiti	913	428	258	1,599
Columbia	1,273	403	197	1,873
El Salvador	887	370	184	1,441
Trinidad and Tobago	1,009	356	137	1,502
Peru	782	304	151	1,237
Guyana	766	262	89	1,117
Ecuador	665	249	85	999
China	621	244	129	994
Nicaragua	579	239	136	954
Nigeria	514	235	7	756
Guatemala	501	228	77	806
Vietnam	1,492	220	91	1,803
Korea, Republic Of	3,806	215	286	4,307
Honduras	512	200	78	790
Cuba	523	197	103	823
Thailand	901	190	89	1,180
Ghana	384	173	96	653
Canada	1,337	160	105	1,602
United Kingdom	2,663	150	94	2,907
Germany	9,716	128	21	9,865
Panama	1,655	121	54	1,830
Venezuela	277	101	62	440
Kenya	154	95	66	315
Liberia	243	88	44	375
Russia	258	87	0	345
India	445	81	40	566
Belize	214	73	24	311
Poland	372	72	58	502
Barbados	253	69	22	344

Country of Birth	US Citizen/National	Non-US Citizen/National	Unknown	Total
Brazil	298	68	72	438
Laos	299	68	25	392
Dominica	192	62	27	281
Ethiopia	147	62	40	249
South Africa	113	58	31	202
St. Lucia	121	53	22	196
Grenada	148	51	20	219
Togo	48	50	34	132
Ukraine	156	46	43	245
Romania	197	44	33	274
Japan	2,824	41	14	2,879
Sierra Leone	124	37	25	186
Cambodia	168	35	22	225
St. Vincent, Grenadines	115	35	17	167
Argentina	105	34	25	164
Fiji	75	34	27	136
Bolivia	133	32	26	191

Source: CRS analysis of DOD data as of November 2007.

Appendix C. Reserve Citizenship Status, by Country of Birth: Top 50 Countries

Country of Birth	US Citizen/National	Non US Citizen/ National	Unknown	Total
Philippines	3,030	565	3	3,598
Mexico	1,183	447	2	1,632
Jamaica	523	179	0	702
Dominican Republic	266	106	0	372
Columbia	336	96	0	432
El Salvador	178	92	0	270
Haiti	170	86	0	256
Peru	182	86	2	270
China	201	81	1	283
Vietnam	486	80	1	567
Trinidad And Tobago	235	77	0	312
Nigeria	103	66	0	169
Guyana	162	64	0	226
Ecuador	160	55	0	215
Korea, Republic Of	623	53	0	676
Canada	570	43	4	617
Nicaragua	77	43	0	120
Thailand	191	43	0	234
United Kingdom	1,024	43	0	1,067
Cuba	252	42	0	294
Guatemala	99	39	1	139
Honduras	100	38	1	139
India	203	35	1	239
Brazil	86	32	0	118
Venezuela	81	29	0	110
Ghana	49	27	0	76
Kenya	35	25	0	60
Poland	116	21	0	137
Germany	1,966	18	0	1,984
Liberia	39	18	1	58
Panama	346	17	0	363
Cambodia	39	15	0	54
Cameroon	13	15	0	28

Country of Birth	US Citizen/National	Non US Citizen/ National	Unknown	Total
Ethiopia	30	15	0	45
Laos	82	14	0	96
Dominica	51	13	0	64
Portugal	103	13	0	116
Belize	39	12	0	51
Morocco	48	12	0	60
Russia	48	11	0	59
Togo	9	11	0	20
Taiwan	124	11	0	135
Costa Rica	44	10	1	55
Japan	1,031	10	0	1,041
Pakistan	56	10	1	67
Barbados	57	9	0	66
Hong Kong	77	9	0	86
Korea (North)	76	9	1	86
Fiji	27	8	0	35
South Africa	44	8	0	52

Source: CRS analysis of DOD data as of November 2007.

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