

116TH CONGRESS  
1ST SESSION

# H. R. 5151

To establish a military family immigration advisory committee, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2019

Mr. TAKANO introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Veterans' Affairs, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a military family immigration advisory committee, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Honoring the Oath  
5 Act of 2019”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) military service to the United States is a  
9 sacrifice that demonstrates loyalty to the Nation;

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

7           (3) such noncitizen and his or her family mem-  
8           bers deserve consideration for the exercise of pros-  
9           ecutorial discretion in immigration removal pro-  
10          ceedings; and

11          (4) a noncitizen veteran who is deported after  
12          consideration under this Act should be provided the  
13          same veterans’ benefits to which a similarly situated  
14          United States citizen veteran would be entitled.

15 **SEC. 3. DEFINITIONS.**

16       In this Act:

17           (1) **ADVISORY COMMITTEE.**—The term “Advi-  
18           sory Committee” means the Military Family Immi-  
19           gration Advisory Committee established pursuant to  
20           section 5.

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

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

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

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

5 (D) the Committee on Veterans' Affairs of  
6 the Senate;

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

9 (F) the Committee on Homeland Security  
10 of the House of Representatives;

11 (G) the Committee on the Judiciary of the  
12 House of Representatives; and

13 (H) the Committee on Veterans' Affairs of  
14 the House of Representatives.

15 (3) ARMED FORCES.—The term “Armed  
16 Forces” has the meaning given that term in section  
17 101 of title 10, United States Code.

18 (4) COVERED FAMILY MEMBER.—The term  
19 “covered family member” means the noncitizen  
20 spouse or noncitizen minor child of—

21 (A) a member of the Armed Forces serving  
22 on active duty or in a reserve component; or

23 (B) a veteran, as defined in paragraph (4).

24 (5) NONCITIZEN.—The term “noncitizen”  
25 means an individual who is not a national of the

1 United States (as defined in section 101(a)(22) of  
2 the Immigration and Nationality Act (8 U.S.C.  
3 1101(a)(22))).

4 (6) VETERAN.—The term “veteran” has the  
5 meaning given that term in section 101 of title 38,  
6 United States Code.

7 **SEC. 4. IDENTIFICATION OF MEMBERS OF THE ARMED**  
8 **FORCES, VETERANS, AND COVERED FAMILY**  
9 **MEMBERS IN REMOVAL PROCEEDINGS.**

10 (a) IN GENERAL.—Not later than the time of the  
11 Master Calendar Hearing for any individual in removal  
12 proceedings, the Director of U.S. Immigration and Cus-  
13 toms Enforcement shall identify whether the individual  
14 is—

15 (1) a member of the Armed Forces serving on  
16 active duty or in a reserve component;

17 (2) a veteran; or

18 (3) a covered family member.

19 (b) TRANSFER OF CASE FILES.—The Director of  
20 U.S. Immigration and Customs Enforcement shall trans-  
21 fer a copy of the complete case file of any individual identi-  
22 fied under subsection (a), immediately after such identi-  
23 fication, to the Advisory Committee.

24 (c) LIMITATION ON REMOVAL.—Notwithstanding any  
25 other provision of law, an individual described in sub-

1 section (a) may not be removed until the Military Family  
2 Immigration Advisory Committee has provided rec-  
3 ommendations with respect to that individual to the Sec-  
4 retary of Homeland Security and the Attorney General  
5 under section 5.

6 **SEC. 5. MILITARY FAMILY IMMIGRATION ADVISORY COM-**  
7 **MITTEE.**

8 (a) ESTABLISHMENT.—The Secretary of Homeland  
9 Security, in consultation with the Secretary of Defense  
10 and in cooperation with the Secretary of the Army, the  
11 Secretary of the Navy, the Secretary of the Air Force, and  
12 the Commandant of the Coast Guard, shall establish an  
13 advisory committee, to be known as the “Military Family  
14 Immigration Advisory Committee”, to provide rec-  
15 ommendations to the Secretary of Homeland Security and  
16 the Attorney General on the exercise of prosecutorial dis-  
17 cretion in cases involving removal proceedings of individ-  
18 uals described in section 4(a).

19 (b) MEMBERSHIP.—The Advisory Committee shall be  
20 composed of—

- 21 (1) the Deputy Commanding General of Army  
22 Human Resources Command, or designee;  
23 (2) the Judge Advocate of the Army, or des-  
24 ignee;

1           (3) the Deputy Commander of Navy Personnel  
2       Command, or designee;

3           (4) the Judge Advocate of the Navy, or des-  
4       ignee;

5           (5) the Vice Chief of Staff of the Air Force;

6           (6) the Judge Advocate of the Air Force, or  
7       designee;

8           (7) the Deputy Commandant for Mission Sup-  
9       port of the Coast Guard;

10          (8) the Judge Advocate of the Coast Guard, or  
11       designee; and

12          (9) the Deputy Commandant of Manpower and  
13       Reserve Affairs of the Marine Corps, or designee.

14       (c) CASE REVIEWS.—

15           (1) IN GENERAL.—Not later than 30 days after  
16       the Director of U.S. Immigration and Customs En-  
17       forcement notifies the Advisory Committee of the  
18       case of an individual described in section 4(a), the  
19       Advisory Committee shall meet to review the case  
20       and to provide a written recommendation to the Sec-  
21       retary of Homeland Security on whether the indi-  
22       vidual—

23           (A) notwithstanding the grounds for re-  
24       moval asserted by U.S. Immigration and Cus-  
25       toms Enforcement, should be granted—

1 (i) a stay of removal and allowed to  
2 apply for asylum;

3 (ii) deferred action; or

4 (iii) parole; or

5 (B) should be removed from the United  
6 States.

7 (2) SUBMISSION OF INFORMATION.—An indi-  
8 vidual who is the subject of a case review under  
9 paragraph (1) may submit information to the Advi-  
10 sory Committee, and the Advisory Committee shall  
11 consider such information.

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

16 (A) with respect to a member of the  
17 Armed Forces serving on active duty or in a re-  
18 serve component, whether the individual—

19 (i) took an oath of enlistment or an  
20 oath of office;

21 (ii) received military decorations, cam-  
22 paign medals, or service medals, was de-  
23 ployed, or was otherwise evaluated for  
24 merit in service during his or her service in  
25 the Armed Forces;

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

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

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

9 (i) took an oath of enlistment or an  
10 oath of office;

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

14 (iii) received military decorations,  
15 campaign medals, or service medals, was  
16 deployed, or was otherwise evaluated for  
17 merit in service during his or her service in  
18 the Armed Forces;

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

22 (v) contributed to his or her local  
23 community during or after his or her serv-  
24 ice in the Armed Forces; and



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

3 (i) supported a member of the Armed  
4 Forces serving on active duty or a veteran,  
5 including through financial support, emo-  
6 tional support, or caregiving; or

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

10 (d) CONSULTATION WITH U.S. IMMIGRATION AND  
11 CUSTOMS ENFORCEMENT PRINCIPAL LEGAL ADVISOR.—  
12 The Principal Legal Advisor of U.S. Immigration and  
13 Customs Enforcement, or designee, shall consult with the  
14 Advisory Committee at the request of members of the Ad-  
15 visory Committee.

16 (e) BRIEFINGS ON UNSUITABILITY OF NONCITIZEN  
17 MEMBERS OF THE ARMED FORCES.—The Under Sec-  
18 retary of Defense for Personnel and Readiness shall pro-  
19 vide detailed briefings to the Advisory Committee regard-  
20 ing the reasons for determining the unsuitability of noncit-  
21 izen members of the Armed Forces whose cases are being  
22 considered by the Advisory Committee.

23 (f) BRIEFINGS ON ACTIONS IN RESPONSE TO REC-  
24 OMMENDATIONS.—Not less frequently than quarterly, the  
25 Secretary of Homeland Security shall provide detailed

1 briefings to the Advisory Committee regarding actions  
2 taken in response to the recommendations of the Advisory  
3 Committee, including detailed explanations for any cases  
4 in which a recommendation of the Advisory Committee  
5 was not followed.

6 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
7 authorized to be appropriated such sums as may be nec-  
8 essary to carry out this section.

9 **SEC. 6. LIST OF COUNTRIES UNWILLING TO REPATRIATE**  
10 **UNITED STATES VETERANS.**

11 The Secretary of Homeland Security, in consultation  
12 with the Secretary of State, shall compile and annually  
13 update a list of countries that refuse to repatriate nation-  
14 als of such country who have enlisted or been appointed  
15 in the United States Armed Forces.

16 **SEC. 7. PROGRAM OF CITIZENSHIP THROUGH MILITARY**  
17 **SERVICE.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-  
19 rity, acting through the Director of U.S. Citizenship and  
20 Immigration Services, and the Secretary of Defense shall  
21 jointly carry out a program under which any individual  
22 noncitizen who serves on active duty in the Armed Forces,  
23 and the noncitizen spouse and any noncitizen minor child  
24 of such individual, shall be naturalized as a United States  
25 citizen if such individual, and such spouse or child, is not

1 otherwise ineligible for citizenship under the immigration  
2 laws (as that term is defined in section 101(a)(17) of the  
3 Immigration and Nationality Act (8 U.S.C. 1101(a)(17))).

4 (b) JAG TRAINING.—The Secretary of Defense shall  
5 ensure that appropriate members of the judge advocate  
6 general corps of the Armed Forces shall receive training  
7 to function as liaisons with U.S. Citizenship and Immigra-  
8 tion Services with respect to applications for citizenship  
9 of noncitizen members of the Armed Forces assigned to  
10 units in such areas.

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

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

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

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

22 (d) APPLICATION FOR NATURALIZATION.—

23 (1) BIOMETRICS.—

24 (A) SUBMISSION OF BIOMETRIC INFORMA-  
25 TION.—The Secretary of Defense shall ensure

1           that, at the time of accession into the Armed  
2           Forces, biometric information of an individual  
3           who has applied, or who plans to apply, for nat-  
4           uralization is submitted to U.S. Citizenship and  
5           Immigration Services for the purposes of such  
6           application.

7                   (B) ACCEPTANCE OF BIOMETRIC INFORMA-  
8           TION.—The Director of U.S. Citizenship and  
9           Immigration Services shall accept any biometric  
10          information submitted pursuant to subpara-  
11          graph (A).

12           (2) FILING OF APPLICATION.—The Secretary of  
13          Homeland Security, in coordination with the Sec-  
14          retary of Defense, shall ensure that each noncitizen  
15          individual who accesses into the Armed Forces is  
16          permitted to file an application for naturalization as  
17          part of the accessions process.

18           (3) ADJUDICATION OF APPLICATION.—The Sec-  
19          retary of Homeland Security, in coordination with  
20          the Secretary of Defense, shall ensure that the appli-  
21          cation for naturalization of any individual who ap-  
22          plies for naturalization during the accessions process  
23          into the Armed Forces is adjudicated not later than  
24          the last day of active service of the individual in the  
25          Armed Forces.

1 (e) ANNUAL REPORTS.—The Secretary of each mili-  
 2 tary department shall annually submit to the appropriate  
 3 congressional committees a report on the number of all  
 4 noncitizens who enlisted or were appointed in their depart-  
 5 ment, all members of the Armed Forces in their depart-  
 6 ment who naturalized, and all members of the Armed  
 7 Forces in their department who were discharged or re-  
 8 leased without United States citizenship under the juris-  
 9 diction of such Secretary during the preceding year.

10 **SEC. 8. STUDY AND REPORT ON NONCITIZEN VETERANS**

11 **REMOVED FROM THE UNITED STATES.**

12 (a) STUDY REQUIRED.—Not later than 1 year after  
 13 the date of the enactment of this Act, the Secretary of  
 14 Defense, the Secretary of Homeland Security, and the  
 15 Secretary of Veterans Affairs shall jointly carry out a  
 16 study on noncitizen veterans of the Armed Forces who  
 17 were removed from the United States during the period  
 18 beginning on January 1, 1990, and ending on the date  
 19 of the enactment of this Act, which shall include—

20 (1) the number of noncitizens removed by U.S.  
 21 Immigration and Customs Enforcement or the Im-  
 22 migration and Naturalization Service during the pe-  
 23 riod covered by the report who served on active duty  
 24 in the Armed Forces or in a reserve component of

1 the Armed Forces for a period of more than 180  
2 days;

3 (2) for each noncitizen described in paragraph  
4 (1)—

5 (A) the country of origin of the noncitizen;

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

8 (C) the grounds for removal under section  
9 237(a) of the Immigration and Nationality Act  
10 (8 U.S.C. 1227) or section 212(a) of the Immi-  
11 gration and Nationality Act (8 U.S.C. 1182), as  
12 applicable; and

13 (D) whether the noncitizen appealed the  
14 removal order;

15 (3) the number of noncitizens described in  
16 paragraph (1) who—

17 (A) were discharged or released from serv-  
18 ice under honorable conditions;

19 (B) were deployed overseas;

20 (C) served on active duty in the Armed  
21 Forces in an overseas contingency operation;

22 (D) were awarded military decorations,  
23 campaign medals, or service medals;

24 (E) applied for benefits under laws admin-  
25 istered by the Secretary of Veterans Affairs; or

1 (F) are receiving benefits described in sub-  
2 paragraph (E); and

3 (4) a description of the reasons preventing any  
4 of the noncitizens who applied for benefits described  
5 in paragraph (3)(E) from receiving such benefits.

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

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