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110TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 110–429

KENDELL FREDERICK CITIZENSHIP ASSISTANCE ACT

NOVEMBER 6, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2884]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2884) to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
The Amendment	1
Purpose and Summary	3
Background and Need for the Legislation	3
Hearings	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures	5
Congressional Budget Office Cost Estimate	5
Performance Goals and Objectives	6
Constitutional Authority Statement	6
Advisory on Earmarks	6
Section-by-Section Analysis	6
Changes in Existing Law Made by the Bill, as Reported	7

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kendell Frederick Citizenship Assistance Act".

69–006

SEC. 2. FINGERPRINTS FOR MEMBERS OF ARMED FORCES.

(a) IN GENERAL.—Notwithstanding any other provision of law, including section 552a of title 5, United States Code (commonly referred to as the "Privacy Act of 1974"), the Secretary of Homeland Security shall use the fingerprints provided by an individual at the time the individual enlisted in the Armed Forces to satisfy any requirement for fingerprints that is part of an application for naturalization if—

(1) the individual may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439–1440);

(2) the individual was fingerprinted in accordance with the requirements of the Department of Defense at the time the individual enlisted in the Armed Forces;

(3) the individual submits an application for naturalization not later than 24 months after the date on which the individual enlisted in the Armed Forces; and

(4) the Secretary of Homeland Security determines that the fingerprints are sufficient to adjudicate the applicant's naturalization application.

(b) MOST TIMELY AND EFFECTIVE ADJUDICATION.—Nothing in this section shall preclude an individual described in subsection (a) from submitting new fingerprints to the Secretary of Homeland Security. If the Secretary of Homeland Security determines that submitting new fingerprints would result in more timely and effective adjudication of the individual's naturalization application, the Secretary shall inform the individual that submitting new fingerprints would result in more timely and effective adjudication of the individual's naturalization application, along with a description of how to submit new fingerprints.

(c) COOPERATION.—The Secretary of Homeland Security, in consultation with the Secretary of Defense, shall determine the format of fingerprints acceptable for usage under subsection (a). The Secretary of Defense, or any other official having custody of the fingerprints referred to in subsection (a), shall make such prints available to the Secretary of Homeland Security for the purpose described in subsection (a) without charge and shall otherwise cooperate with the Secretary of Homeland Security in fulfilling the Secretary's satisfaction of the requirement under subsection (a).

SEC. 3. PROVISION OF INFORMATION ON MILITARY NATURALIZATION.

(a) IN GENERAL.—Not later than 30 days after the effective date of any modification to a regulation related to naturalization under section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439–1440), the Secretary of Homeland Security shall update as necessary the appropriate Internet site or sites maintained by the Secretary to reflect such modification.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Homeland Security should update as necessary the appropriate application form or forms promulgated by the Secretary not later than 180 days after an effective date described in subsection (a).

SEC. 4. REPORTS.

(a) ADJUDICATION PROCESS.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the entire process for the adjudication of an application for naturalization filed pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439–1440), including the process that begins at the time the application is mailed to, or received by, the Secretary of Homeland Security, regardless of whether the Secretary determines that such application is complete, through the final disposition of such application. Such report shall include a description of—

(1) the methods of the Secretary of Homeland Security and the Secretary of Defense to prepare, handle, and adjudicate such applications;

(2) the effectiveness of the chain of authority, supervision, and training of employees of the Federal Government or of other entities, including contract employees, who have any role in such process or adjudication; and

(3) the ability of the Secretary of Homeland Security and the Secretary of Defense to use technology to facilitate or accomplish any aspect of such process or adjudication.

(b) IMPLEMENTATION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of this Act by the Secretary of Homeland Security and the Secretary of Defense, including studying any technology that may be used to improve the efficiency of the naturalization process for members of the Armed Forces.

(2) REPORT.—Not later than 180 days after the date that the Comptroller General submits the report required by subsection (a), the Comptroller General shall submit to the appropriate congressional committees a report on the study

required by paragraph (1). The report shall include any recommendations of the Comptroller General for improving the implementation of this Act by the Secretary of Homeland Security or the Secretary of Defense.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services and the Committee on the Judiciary of the Senate; and

(2) the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives.

PURPOSE AND SUMMARY

Currently, fingerprints that an individual must supply in order to enlist in the Armed Services are not accepted by the Department of Homeland Security (DHS) for naturalization purposes. H.R. 2884 addresses this problem by requiring DHS to use such fingerprints for naturalization purposes if they are sufficient for such purposes. H.R. 2884 also requires: (1) DHS to update its websites and forms related to naturalization for members of the Armed Forces in a timely manner; (2) DHS to inform military naturalization applicants to submit new fingerprints if it would result in more timely adjudication of naturalization applications; (3) the Department of Defense to work with the Government Accountability Office (GAO) to provide fingerprints to DHS; and (4) the GAO to report on the naturalization process by members of the Armed Forces and through this Act.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 2884, the "Kendall Frederick Citizenship Assistance Act," honors the memory of 21 year old Army Reserve Specialist Kendell K. Frederick who was killed in Iraq while attempting to obtain United States citizenship. Approximately 35,000 lawful permanent residents are currently serving in our Armed Forces and more than 13,000 non-citizen members of the military have applied for United States citizenship since 2002.

Specialist Frederick was born in Trinidad and immigrated to the United States when he was fifteen to join his mother, stepfather, and two sisters. He attended Randallstown Senior High in Baltimore County, Maryland, where he joined the school's ROTC program. Specialist Frederick enlisted in the Army Reserve in his senior year and was deployed to Iraq in December 2004.

While he was serving our country, Specialist Frederick decided to apply for United States citizenship, but his application was delayed as a result of various bureaucratic failings. First, the U.S. Citizenship and Immigration Service (USCIS) did not route his application to the unit that processed naturalization applications from members of the military. Second, USCIS thereafter rejected his application for failing to include an application filing fee, despite the fact that active military personnel applying for United States citizenship do not need to pay such fee. Third, USCIS directed Specialist Frederick to get his fingerprints taken in Maryland despite the fact that he was serving in Iraq at the time. Also, he had recently had his fingerprints taken and undergone a background check when he enlisted in the Army Reserve. When his mother called the USCIS "help line," she was informed that there was nothing that the agency could do.

After trying for more than a year to become a United States citizen and having his application rejected and delayed due to bureaucratic failures and misinformation, Specialist Frederick was forced to travel on a convoy to a base where he could get his fingerprints taken for his naturalization application. Tragically, he was killed en route by a roadside bomb on October 19, 2005. Specialist Frederick was posthumously granted United States citizenship a week after his death.

H.R. 2884 would remove unnecessary procedural hurdles for naturalization applicants who are serving or have recently served in the military. It requires the Department of Homeland Security (DHS) to use the fingerprints provided by a military naturalization applicant at the time of his or her enlistment in the Armed Forces if: (1) the applicant was fingerprinted in accordance with the Department of Defense's requirements; (2) the naturalization application is filed within 24 months of enlistment; and (3) the fingerprints are deemed sufficient by DHS for naturalization purposes.

H.R. 2884 also requires DHS to inform a member of the Armed Services applying for naturalization that submitting new fingerprints would result in more timely and effective adjudication of his or her naturalization application, along with providing a description of how to submit the new fingerprints. In addition, the bill ensures that the Department of Defense complies with the requirements of this bill so that fingerprints held by the Department of Defense are sent to DHS. Further, the bill clarifies the time frame by which DHS must publicize changes in regulations regarding the naturalization of members of the Armed Forces. Finally, the bill ensures agency accountability to Congress by requiring the Government Accountability Office to report on the naturalization process for Armed Forces members.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 2884.

COMMITTEE CONSIDERATION

On September 25, 2007, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill, H.R. 2884, favorably reported, with an amendment, by voice vote, a quorum being present. On October 24, 2007, the Committee met in open session and ordered the bill, H.R. 2884, favorably reported with an amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 2884.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activi-

ties under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2884, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 5, 2007.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2884, the Kendell Frederick Citizenship Assistance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 2884—Kendell Frederick Citizenship Assistance Act

H.R. 2884 would direct the Department of Homeland Security (DHS), when processing applications for naturalization for certain members of the armed forces, to use the fingerprints provided by those persons when they enlisted. Based on information from DHS, CBO estimates that implementing the bill would result in no significant costs to the department. Enacting the bill could affect direct spending, but CBO estimates that any such effects would not be significant. H.R. 2884 would not affect revenues.

In addition, H.R. 2884 would require the Government Accountability Office to prepare two reports on the adjudication of applications for naturalization through military service. CBO estimates that it would cost less than $500,000 in fiscal year 2008, from appropriated funds, to complete these reports.

H.R. 2884 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 2884 is to reduce procedural hurdles for naturalization applicants who are serving or have recently served in the military.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2884 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the Kendell Frederick Citizenship Act.

Sec. 2. Fingerprints for Members of the Armed Forces. Section 2(a) directs the Secretary of Homeland Security, for naturalization purposes, to use the fingerprints submitted by an individual to the Armed Forces for enlistment purposes instead of requiring a new set of fingerprints if: (1) Department of Defense regulations were followed in collecting these fingerprints; (2) the naturalization application was submitted not later than 24 months after the applicant joined the Armed Forces; and (3) the Secretary of Homeland Security determines that the fingerprints are sufficient for the naturalization process.

Section 2(b) allows members of the Armed Forces to submit new fingerprints to the DHS for purposes of naturalization regardless of the requirements of subsection (a). It also requires DHS to inform naturalization applicants who are members of the Armed Forces of their choice to provide new fingerprints when the Secretary of Homeland Security determines that submitting new fingerprints would result in more timely and effective adjudication of a naturalization application.

Section 2(c) requires the Secretary of Homeland Security, in consultation with the Department of Defense, to determine the fingerprint format acceptable for usage for the submission of fingerprints by the Department of Defense to the Department of Homeland Security (DHS) as required in subsection (a). This section also requires the Secretary of Defense to provide fingerprints to DHS for purposes outlined in subection (a) at no charge and to cooperate with DHS to execute the requirements in section (a).

Sec. 3. Provision of Information on Military Naturalization. Section 3(a) requires the Secretary of Homeland Security to update websites maintained by the Secretary within 30 days of any change in law or regulation on naturalization related to members of the Armed Forces.

Subsection (b) expresses a sense of the Congress that the Secretary of Homeland Security should update forms on naturalization within 180 days after the effective date of this Act.

Sec. 4. Reports. Section 4(a) requires the Comptroller General to provide a report not later than 120 days after enactment of this Act on the process of adjudication of a naturalization application by members of the Armed Services. Subsection (b) requires the Comptroller General to study the implementation of this Act and to submit a report and recommendations on the study described within 180 days after submitting the report required in subsection (a). Subsection (c) specifies that the House and Senate Committees on Armed Services and the Judiciary should receive these reports.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee advises that H.R. 2884 makes no changes to existing law.

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