

Calendar No. 936

110TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 110-440

MILITARY PERSONNEL CITIZENSHIP PROCESSING ACT

AUGUST 1, 2008.—Ordered to be printed

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

R E P O R T

[To accompany S. 2840]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 2840), to establish a liaison with the Federal Bureau of Investigation in the United States Citizenship and Immigration Services to expedite naturalization applications filed by members of the Armed Forces and to establish a deadline for processing such applications, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

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I. BACKGROUND AND PURPOSE OF THE MILITARY PERSONNEL CITIZENSHIP PROCESSING ACT

This bill seeks to address a problem in which foreign-born troops, who are otherwise eligible for citizenship in the United States, face huge delays in the processing and adjudicating of their applications for naturalization. These delays stem in large part from foreign-born troops' Federal Bureau of Investigation (FBI) background

checks, in which confusion over foreign names or military status may lead to delays that last months. As a result, U.S. Citizenship and Immigration Services (USCIS) is facing a considerable backlog in the processing of applications. The Military Personnel Citizenship Processing Act (S. 2840) would address this backlog by creating an Office of the FBI Liaison within the Department of Homeland Security (DHS) to monitor communication gaps between USCIS and the FBI. The Military Personnel Citizenship Processing Act further requires USCIS to process and adjudicate applications for citizenship for members of the Armed Forces or their qualifying family members within six months, or to send notice to the applicant of the reasons for the delay.

II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

A. INTRODUCTION OF THE BILL

The Military Personnel Citizenship Processing Act was introduced on April 10, 2008, by Senators Schumer and Hagel. It was read twice and referred to the Committee on the Judiciary. Senators Menendez, Kennedy, Specter, and Leahy joined as cosponsors.

B. COMMITTEE CONSIDERATION

The bill was first placed on the agenda for the Judiciary Committee's executive business meeting on April 24, 2008. It was held over.

The bill was considered by the Judiciary Committee at the executive business meeting on May 8, 2008. Senator Schumer offered an amendment in the nature of a substitute to extend the bill to war veterans who are eligible for posthumous grants of citizenship and to qualifying spouses and children of military personnel. It also clarified that an individual's naturalization will not be considered completed until all necessary background checks are completed. The amendment also made technical corrections. The amendment was agreed to by unanimous consent.

The Committee then voted to report the Military Personnel Citizenship Processing Act, with an amendment in the nature of a substitute, favorably to the Senate by unanimous consent.

III. SECTION-BY-SECTION SUMMARY OF THE BILL

Section 1. Short title

This section provides that the legislation may be cited as the "Military Personnel Citizenship Processing Act."

Section 2. Office of the FBI Liaison

This section creates an Office of the FBI Liaison within the Department of Homeland Security to monitor the progress of the functions of the FBI in the naturalization process. As such, the Office will assist in the expeditious completion of all such functions pertaining to naturalization applications filed by, or on behalf of, current or former members of the Armed Forces, current spouses and children of service members, and deceased individuals eligible for posthumous citizenship under 8 U.S.C. §§ 1440–41. This section also authorizes appropriations and requires the Secretary of DHS,

in consultation with the Attorney General, to promulgate rules for the creation of the Office of the FBI Liaison.

Section 3. Deadline for processing and adjudicating naturalization applications filed by current or former members of the Armed Forces and their spouses and children

This section requires USCIS to process and adjudicate applications filed by current or former members of the Armed Forces and their spouses and children no later than six months after receiving such applications. If an application is still pending after six months, the bill requires that USCIS provide the applicant with an explanation for its inability to meet the processing and adjudication deadline and an estimate of the date by which the application will be completed. It also requires that the Director of USCIS submit an annual report to relevant Congressional committees that identifies applications still pending after one year due to delays in conducting required background checks. Finally, this section calls for a Government Accountability Office report outlining the average length of time taken by USCIS to process and adjudicate applications for naturalization filed by members of the Armed Forces, deceased members of the Armed Forces, and their spouses and children. It is not the intent of Congress that failure to provide notice under this section will alone entitle an applicant to seek judicial or administrative review under Sections 310(c) or 336(b) of the Immigration and Nationality Act (8 U.S.C. §§ 1421(c) and 1447(b)), or under Subchapter II of Chapter 5 and Chapter 7 of Title 5, United States Code (commonly known as the “Administrative Procedure Act”).

Section 4. Sunset provision

This section requires that this Act and the amendments made by this Act expire five years from the date of enactment.

IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee sets forth, with respect to the bill, S. 2840, the following estimate and comparison prepared by the Director of the Congressional Budget Office under Section 402 of the Congressional Budget Act of 1974:

MAY 15, 2008.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2840, the Military Personnel Citizenship Processing 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.

Enclosure.

S. 2840—Military Personnel Citizenship Processing Act

CBO estimates that implementing S. 2840 would cost less than \$1 million in fiscal year 2009 and less than \$500,000 in each year thereafter, assuming the availability of appropriated funds. Enacting the bill could affect direct spending, but CBO estimates that any such effects would not be significant in any year. Enacting S. 2840 would not affect revenues.

S. 2840 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.

S. 2840 would establish a new office in the Department of Homeland Security (DHS) to monitor the progress of the Federal Bureau of Investigation (FBI) in completing background checks relating to applications for naturalization from members of the U.S. Armed Forces. In addition, the bill would require DHS to adjudicate such applications within six months of receiving them or provide an explanation to the applicant for not meeting this deadline. S. 2840 also would direct the Government Accountability Office (GAO) to prepare a report for the Congress on average processing times for naturalization applications submitted by members of the Armed Forces. The provisions of S. 2840 would expire five years after the date of the bill's enactment.

Based on information from DHS, CBO estimates that the new Office of the FBI Liaison would require a staff of no more than two or three persons and would cost less than \$500,000 annually, from appropriated funds. Based on the cost of similar studies, we estimate that the GAO report would cost less than \$500,000 from appropriated funds in fiscal year 2009.

Enacting S. 2840 also would increase administrative costs for DHS to expedite and track the processing of applications for naturalization from members of the Armed Forces. CBO estimates that such costs would not be significant in any year because of the relatively small number of applications affected. Such costs would be funded by fees collected by DHS and would be classified as direct spending.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 2840.

VI. CONCLUSION

The Military Personnel Citizenship Processing Act, S. 2840, addresses current delays in USCIS's processing of naturalization applications for foreign-born military personnel and qualifying members of their families. While previously passed measures concerning the naturalization of foreign-born troops have dealt with processing of collected biometric data and timely adjudication after FBI background checks are complete, S. 2840 will ensure that the background checks themselves are done expeditiously.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2840, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE**TITLE 6—Domestic Security**

* * * * *

CHAPTER 1—Homeland Security Organization Directorate of Border and Transportation Security Citizenship and Immigration Services

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§ 271. Establishment of Bureau of Citizenship and Immigration Services

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(g) *OFFICE OF THE FBI LIAISON.—*

(1) *IN GENERAL.—There shall be an Office of the FBI Liaison in the Department of Homeland Security.*

(2) *FUNCTIONS.—The Office of the FBI Liaison shall monitor the progress of the functions of the Federal Bureau of Investigation in the naturalization process to assist in the expeditious completion of all such functions pertaining to naturalization applications filed by, or on behalf of—*

(A) *current or former members of the Armed Forces under section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440);*

(B) *current spouses of United States citizens who are currently serving on active duty in the Armed Forces, who qualify for naturalization under section 319(b) of the Immigration and Nationality Act (8 U.S.C. 1430(b)), and surviving spouses and children who qualify for naturalization under section 319(d) of such Act; or*

(C) *a deceased individual who is eligible for posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).*

(3) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.*

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TITLE 8—Aliens and Nationality

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**CHAPTER 12—Immigration and Nationality Adjustment and
Change of Status Nationality through Naturalization**

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§ 1439. Naturalization through Service in the Armed Forces

* * * * *

(g) Not later than 6 months after receiving an application for naturalization filed by a current member of the Armed Forces under subsection (a), section 329(a), or section 329A, by the spouse of such member under section 319(b), or by a surviving spouse or child under section 319(d), United States Citizenship and Immigration Services shall—

(1) process and adjudicate the application, including completing all required background checks to the satisfaction of the Secretary of Homeland Security; or

(2) provide the applicant with—

(A) an explanation for its inability to meet the processing and adjudication deadline under this subsection; and

(B) an estimate of the date by which the application will be processed and adjudicated.

(h) The Director of United States Citizenship and Immigration Services shall submit an annual report to the Subcommittee on Immigration, Border Security, and Refugees and the Subcommittee on Homeland Security of the Senate and the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law and the Subcommittee on Homeland Security of the House of Representatives that identifies every application filed under subsection (a), subsection (b) or (d) of section 319, section 329(a), or section 329A that is not processed and adjudicated within 1 year after it was filed due to delays in conducting required background checks.