

112TH CONGRESS  
1ST SESSION

# S. 1109

To authorize the adjustment of status for immediate family members of individuals who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. MENENDEZ (for himself, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mr. LEAHY, Mr. AKAKA, Mr. BENNET, Mrs. GILLIBRAND, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To authorize the adjustment of status for immediate family members of individuals who served honorably in the Armed Forces of the United States during the Afghanistan and Iraq conflicts, 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 “Military Families Act”.

1 **SEC. 2. PERMANENT RESIDENT STATUS FOR FAMILY MEM-**  
 2 **BERS OF MEMBERS OF THE ARMED FORCES.**

3 (a) IN GENERAL.—Section 245 of the Immigration  
 4 and Nationality Act (8 U.S.C. 1255) is amended by add-  
 5 ing at the end the following:

6 “(n) ADJUSTMENT OF STATUS FOR IMMEDIATE FAM-  
 7 ILY MEMBERS OF MEMBERS OF THE ARMED FORCES.—

8 “(1) IN GENERAL.—The Secretary of Homeland  
 9 Security shall adjust the status of an alien described  
 10 in paragraph (2) to that of an alien lawfully admit-  
 11 ted for permanent residence if the alien—

12 “(A) applies for such adjustment;

13 “(B) is admissible to the United States as  
 14 an immigrant, except as provided in paragraph  
 15 (4); and

16 “(C) is physically present in the United  
 17 States.

18 “(2) ALIENS ELIGIBLE FOR ADJUSTMENT OF  
 19 STATUS.—An alien described in this paragraph is an  
 20 alien—

21 “(A) who is a parent, spouse, child, son,  
 22 daughter, or the legal guardian of a child of—

23 “(i) a living Armed Forces member;

24 or

25 “(ii) a deceased Armed Forces mem-  
 26 ber if—

1           “(I) the Armed Forces member  
2           died as a result of injury or disease  
3           incurred in, or aggravated by, the  
4           Armed Forces member’s service; and

5           “(II) the alien applies for such  
6           adjustment—

7                   “(aa) if the death of the  
8                   Armed Forces member occurred  
9                   prior to the date of the enact-  
10                  ment of the Military Families  
11                  Act, not later than 2 years after  
12                  such date of enactment; or

13                   “(bb) if the death of the  
14                   Armed Forces member occurred  
15                   after the date of the enactment  
16                   of the Military Families Act, not  
17                   later than 2 years after the death  
18                   of the Armed Forces member; or

19           “(B) who is the spouse, child, son, or  
20           daughter of an alien described in subparagraph  
21           (A).

22           “(3) ARMED FORCES MEMBER DEFINED.—In  
23           this subsection, the term ‘Armed Forces member’  
24           means an individual who—

1           “(A) is, or was at the time of the individ-  
 2 ual’s death described in paragraph (2)(B)(ii)(I),  
 3 a national of the United States or lawfully ad-  
 4 mitted for permanent residence;

5           “(B) on or after October 7, 2001, served  
 6 as a member of—

7                   “(i) the Armed Forces on active duty;

8                   “(ii) the National Guard; or

9                   “(iii) the Selected Reserve of the  
 10 Ready Reserve; and

11           “(C) if separated from the service de-  
 12 scribed in subparagraph (B), was separated  
 13 under honorable conditions.

14           “(4) INAPPLICABILITY OF CERTAIN GROUNDS  
 15 OF INADMISSIBILITY.—

16           “(A) IN GENERAL.—The provisions of  
 17 paragraphs (4), (5), (6)(A), (7)(A), and (9)(B)  
 18 of section 212(a) shall not apply to an adjust-  
 19 ment of status made pursuant to this sub-  
 20 section.

21           “(B) WAIVER.—The Secretary of Home-  
 22 land Security or the Attorney General, as ap-  
 23 propriate, may waive any other provision of sec-  
 24 tion 212(a) (other than paragraph (2)(C) and  
 25 subparagraphs (A), (B), (C), (E), and (F) of

1 paragraph (3)) with respect to an adjustment of  
2 status made pursuant to this subsection—

3 “(i) for humanitarian purposes;

4 “(ii) to assure family unity; or

5 “(iii) if such waiver is otherwise in the  
6 public interest.

7 “(5) FEE AUTHORITY.—The Secretary of  
8 Homeland Security or the Secretary of State, as ap-  
9 propriate, may establish a fee pursuant to section  
10 9701 of title 31, United States Code, for the proc-  
11 essing of an application for an adjustment of status  
12 made pursuant to this subsection.

13 “(6) JURISDICTION.—

14 “(A) SECRETARY OF HOMELAND SECU-  
15 RITY.—Except as provided in subparagraph  
16 (B), the Secretary of Homeland Security shall  
17 have exclusive jurisdiction to determine eligi-  
18 bility for an adjustment of status made pursu-  
19 ant to this subsection.

20 “(B) ATTORNEY GENERAL.—Notwith-  
21 standing paragraph (1) or subparagraph (A), in  
22 cases in which an alien has been placed into de-  
23 portation, exclusion, or removal proceedings, ei-  
24 ther prior to or after filing an application for  
25 an adjustment of status pursuant to this sub-

1 section, the Attorney General shall have exclu-  
2 sive jurisdiction and shall assume all the powers  
3 and duties of the Secretary of Homeland Secu-  
4 rity until proceedings are terminated, or if a  
5 final order of deportation, exclusion, or removal  
6 is entered.”.

7 (b) EXEMPTION FROM DIRECT NUMERICAL LIMITA-  
8 TIONS.—Section 201(b)(1) of the Immigration and Na-  
9 tionality Act (8 U.S.C. 1151(b)(1)) is amended by adding  
10 at the end the following:

11 “(F) Aliens provided permanent residence sta-  
12 tus under section 245(n).”.

13 **SEC. 3. FILIPINO VETERANS FAMILY REUNIFICATION.**

14 (a) SHORT TITLE.—This section may be cited as the  
15 “Filipino Veterans Family Reunification Act”.

16 (b) EXCEPTION FROM DIRECT NUMERICAL LIMITA-  
17 TIONS.—Section 201(b)(1) of the Immigration and Na-  
18 tionality Act (8 U.S.C. 1151(b)(1)), as amended by sec-  
19 tion 2(b), is further amended by adding at the end the  
20 following:

21 “(G) Aliens who—  
22 “(i) are eligible for a visa under paragraph  
23 (1) or (3) of section 203(a); and

1           “(ii) have a parent (regardless of whether  
2           the parent is living or dead) who was natural-  
3           ized pursuant to—

4                   “(I) section 405 of the Immigration  
5                   Act of 1990 (Public Law 101–649; 8  
6                   U.S.C. 1440 note); or

7                   “(II) title III of the Act of October  
8                   14, 1940 (54 Stat. 1137, chapter 876), as  
9                   added by section 1001 of the Second War  
10                  Powers Act, 1942 (56 Stat. 182, chapter  
11                  199).”.

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