

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Secretary of Homeland Security to establish a veterans visa program to permit certain veterans who have been removed from the United States to return as immigrants and to permit certain veterans in removal proceedings to remain in the United States as immigrants.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1494

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 At the end add the following:

2 **SEC. 7. BASIC DUE PROCESS FOR MILITARY VETERANS.**

3 (a) DEFINITIONS.—In this section:

4 (1) ARMED FORCES.—The term “Armed
5 Forces” has the meaning given the term “armed
6 forces” in section 101 of title 10, United States
7 Code.

1 (2) CRIME OF VIOLENCE.—The term “crime of
2 violence” means an offense described in section
3 16(a) of title 18, United States Code—

4 (A) that is not a purely political offense;

5 and

6 (B) for which a noncitizen has served a
7 term of imprisonment of more than 1 year.

8 (3) ELIGIBLE VETERAN.—

9 (A) IN GENERAL.—The term “eligible vet-
10 eran” means a veteran who—

11 (i) is a noncitizen; and

12 (ii) meets the criteria described in
13 subsection (b)(5).

14 (B) INCLUSION.—The term “eligible vet-
15 eran” includes a veteran who—

16 (i) was removed from the United
17 States; or

18 (ii) is abroad and is inadmissible
19 under section 212(a) of the Immigration
20 and Nationality Act (8 U.S.C. 1182(a)).

21 (4) NONCITIZEN.—The term “noncitizen”
22 means an individual who is not a citizen or national
23 of the United States (as defined in section 101(a) of
24 the Immigration and Nationality Act (8 U.S.C.
25 1101(a))).

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of Homeland Security.

3 (6) SERVICE MEMBER.—The term “service
4 member” means an individual who is serving as a
5 member of—

6 (A) a regular or reserve component of the
7 Armed Forces on active duty; or

8 (B) a reserve component of the Armed
9 Forces in an active status.

10 (7) VETERAN.—The term “veteran” has the
11 meaning given the term in section 101 of title 38,
12 United States Code.

13 (b) RETURN OF ELIGIBLE VETERANS REMOVED
14 FROM THE UNITED STATES; ADJUSTMENT OF STATUS.—

15 (1) PROGRAM FOR ADMISSION AND ADJUST-
16 MENT OF STATUS.—Not later than 180 days after
17 the date of the enactment of this Act, the Secretary
18 shall establish a program and an application proce-
19 dure that allows—

20 (A) eligible veterans outside the United
21 States to be admitted to the United States as
22 aliens lawfully admitted for permanent resi-
23 dence (as defined in section 101(a) of the Im-
24 migration and Nationality Act (8 U.S.C.
25 1101(a))); and

1 (B) eligible veterans in the United States
2 to adjust status to that of aliens lawfully admit-
3 ted for permanent residence.

4 (2) VETERANS ORDERED REMOVED.—

5 (A) IN GENERAL.—With respect to noncit-
6 izen veterans who are the subjects of final or-
7 ders of removal, including noncitizen veterans
8 who are outside the United States, not later
9 than 180 days after the date of the enactment
10 of this Act, the Attorney General shall—

11 (i) reopen the removal proceedings of
12 each such noncitizen veteran; and

13 (ii) make a determination with respect
14 to whether each such noncitizen veteran is
15 an eligible veteran.

16 (B) RESCISSION OF REMOVAL ORDER.—In
17 the case of a determination under subparagraph
18 (A)(ii) that a noncitizen veteran is an eligible
19 veteran, the Attorney General shall—

20 (i) rescind the order of removal;

21 (ii) adjust the status of the eligible
22 veteran to that of an alien lawfully admit-
23 ted for permanent residence; and

24 (iii) terminate removal proceedings.

25 (3) VETERANS IN REMOVAL PROCEEDINGS.—

1 (A) IN GENERAL.—With respect to each
2 noncitizen veteran the removal proceedings of
3 whom are pending as of the date of the enact-
4 ment of this Act, not later than 180 days after
5 such date of enactment, the Attorney General
6 shall make a determination with respect to
7 whether each such noncitizen veteran is an eli-
8 gible veteran.

9 (B) TERMINATION OF PROCEEDINGS.—In
10 the case of a determination under subparagraph
11 (A) that a noncitizen veteran is an eligible vet-
12 eran, the Attorney General shall—

13 (i) adjust the status of the eligible
14 veteran to that of an alien lawfully admit-
15 ted for permanent residence; and

16 (ii) terminate removal proceedings.

17 (4) NO NUMERICAL LIMITATIONS.—Nothing in
18 this subsection or in any other law may be construed
19 to apply a numerical limitation on the number of
20 veterans who may be eligible to receive a benefit
21 under this subsection.

22 (5) ELIGIBILITY.—

23 (A) IN GENERAL.—Notwithstanding any
24 other provision of law, including sections 212
25 and 237 of the Immigration and Nationality

1 Act (8 U.S.C. 1182 and 1227), a noncitizen
2 veteran shall be eligible to participate in the
3 program established under paragraph (1) or for
4 adjustment of status under paragraph (2) or
5 (3), as applicable, if the Secretary or the Attor-
6 ney General, as applicable, determines that the
7 noncitizen veteran—

8 (i) was not removed or ordered re-
9 moved from the United States based on a
10 conviction for—

11 (I) a crime of violence; or

12 (II) a crime that endangers the
13 national security of the United States
14 for which the noncitizen veteran has
15 served a term of imprisonment of at
16 least 5 years; and

17 (ii) is not inadmissible to, or deport-
18 able from, the United States based on a
19 conviction for a crime described in clause
20 (i).

21 (B) WAIVER.—The Secretary may waive
22 the application of subparagraph (A)—

23 (i) for humanitarian purposes;

24 (ii) to ensure family unity;

1 (iii) based on exceptional service in
2 the Armed Forces; or

3 (iv) if a waiver otherwise is in the
4 public interest.

5 (c) IMPLEMENTATION.—

6 (1) IDENTIFICATION.—The Secretary shall
7 identify noncitizen service members and veterans at
8 risk of removal from the United States by—

9 (A) before initiating a removal proceeding
10 against a noncitizen, asking the noncitizen
11 whether he or she is serving, or has served as
12 a member of—

13 (i) a regular or reserve component of
14 the Armed Forces on active duty; or

15 (ii) a reserve component of the Armed
16 Forces in an active status;

17 (B) requiring U.S. Immigration and Cus-
18 toms Enforcement personnel to seek supervisory
19 approval before initiating a removal proceeding
20 against a service member or veteran; and

21 (C) keeping records of any service member
22 or veteran who has been—

23 (i) the subject of a removal pro-
24 ceeding;

- 1 (ii) detained by the Director of U.S.
2 Immigration and Customs Enforcement; or
3 (iii) removed from the United States.

4 (2) RECORD ANNOTATION.—

5 (A) IN GENERAL.—In the case of a noncitizen
6 service member or veteran identified under
7 paragraph (1), the Secretary shall annotate all
8 immigration and naturalization records of the
9 Department of Homeland Security relating to
10 the noncitizen—

11 (i) to reflect that the noncitizen is a
12 service member or veteran; and

13 (ii) to afford an opportunity to track
14 the outcomes for the noncitizen.

15 (B) CONTENTS OF ANNOTATION.—Each
16 annotation under subparagraph (A) shall include—

17 (i) the branch of military service in
18 which the noncitizen is serving, or has
19 served;

20 (ii) whether the noncitizen is serving,
21 or has served, during a period of military
22 hostilities described in section 329 of the
23 Immigration and Nationality Act (8 U.S.C.
24 1440);
25

1 (iii) the immigration status of the
2 noncitizen on the date of enlistment;

3 (iv) whether the noncitizen is serving
4 honorably or was separated under honor-
5 able conditions;

6 (v) the ground on which removal of
7 the noncitizen from the United States was
8 sought; and

9 (vi) in the case of a noncitizen the re-
10 moval proceedings of whom were initiated
11 on the basis of a criminal conviction, the
12 crime for which the noncitizen was con-
13 victed.

14 (d) REGULATIONS.—Not later than 90 days after the
15 date of the enactment of this Act, the Secretary shall pro-
16 mulgate regulations to implement this section.