

Policy for the Naturalization of Military Servicemen and Women

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Abstract

Despite our nation's historical dependence on foreign volunteers in our armed forces, the rights promised in exchange for their service have been impeded through policy perpetuated by the Trump administration. In 2017, a series of legislation with the goal of decreasing legal immigration into the country negatively impacted citizenship opportunities for past and current service members. The Biden administration pledged to regress these policies as they relate to servicemembers but have astonishingly decided to uphold their current standing. The goal of this policy analysis is to explore the proposed Support and Defend Our Military Personnel and Their Families Act (H.R.3881) and to evaluate its elements of distributive justice. The analysis advocates for H.R. 3881 and provides reference to similar bills that would serve to bolster the overall efficacy of a bill of this nature.

Keywords: military, citizenship, deportation, veterans, policy

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Introduction to Social Issue

Since our country's inception, we have depended on the military service of non-citizens. Our country has historically solicited this service in exchange for a simplified process of naturalization for those individuals who have served honorably during periods of armed conflict. Naturalization is the induction of a foreigner into a country other than their own. Many generations of immigrants are in this country because a forefather made a sacrifice in the name of American militarism. This phenomenon expanded tenfold since the start of the Global War on Terror where the presence of English-speaking interpreters became integral within our armed forces. Despite our dependence on non-citizen service members and their skills, a 2017 Trump administrative policy impeded the naturalization processes for tens of thousands of service members. The policy continues to be supported by a new administration that has promised to protect and expand opportunities for immigrants who risked their lives in military service. In light of this social issue, the author has chosen to research the current 2017 Trump policy in place, as well as policy provisions being introduced to remedy the issue at hand.

Current Policy Provisions

In August of 2017, the Trump administration passed the Reforming American Immigration for a Strong Economy Act (RAISE). While this act encompassed various immigration-related benchmarks, in practice the goal was to reduce legal immigration by 50%. There were various disincentivizing methods utilized, but the most effective was simply cutting the number of green cards issued by half. Once an immigrant receives their green card, they begin the bureaucratic journey of moving up the citizenship ladder. Along this journey, they gain benefits such as being able to sponsor their family members so they may immigrate into the

POLICY: NATURALIZATION OF SERVICE MEMBERS

country. To close the metaphorical flood gates, the Trump administration extended its anti-immigration policies to immigrants attempting to gain citizenship through military service.

Historically, non-citizen service members were offered an expedited path to citizenship that started as soon as they stepped foot into their respective branches' training camps. As a result of the RAISE Act, service members became subject to mandatory service for times of six months to a year before they could apply for citizenship. These mandates were among a few others that were struck down by the Supreme Court in August 2020. Ideally, this would have been the end of the policy; but the Biden administration has continued to file for appeal extensions instead of simply respecting the Supreme Court's decision or disavowing the act as a whole as many expected it would. This decision has ultimately left countless service members in limbo despite the sacrifices they have made for our country.

Strengths of Policy Approach

Speaking in terms of social justice, the implementation of the RAISE Act had no strengths or commendable qualities. With that said, many proponents of the act flaunted its likelihood to bolster our national security and economy. A central idea peddled by the administration at the time was that of Americans first. In reality, this act limited the amount of immigrants in our country who pay taxes, and also inhibited our veterans from receiving the benefits they have earned, which arguably can be regarded as un-American.

Weakness of Policy Approach

The RAISE Act had many weaknesses affecting the areas of American society it sought to strengthen. The limitation of immigrants in our country resulted in a deficit of taxpayers as well as skilled workers crucial to aspects of our society such as infrastructure and the medical field; thereby negatively impacting our economy rather than bolstering it. Additionally, by

POLICY: NATURALIZATION OF SERVICE MEMBERS

targeting current and prospective service members with this agenda, our Armed Forces saw a drop in recruitment numbers as well as quality of candidates (Baldor, 2018). Starting in 2017 shortly after the implementation of the RAISE Act, the Army lowered its recruitment goal and started approving waivers for marijuana use within their prospects demonstrating the negative effects of disincentivizing immigrants from serving.

Proposed Policy

To address the current policy in place, I have identified one central bill that I believe amends the faults of the current policy while also promoting the advancement of veteran rights. The bill in question is the “Support and Defend Our Military Personnel and Their Families Act”, or simply H.R.3881 for short. Originally introduced to the House Committee on the Judiciary in June 2021, the bill aims to provide immigration-related benefits and protections for select members and veterans of the armed forces. The bill is best explained when broken down into four key components. The first component is the extension of naturalization for service members from armed conflict to include contingency operations. Historically, the brevity of the naturalization process only applied to individuals who served during armed conflicts such as the Vietnam War. If a service member was a part of the armed forces during a period of peace, then typically their naturalization process would include additional prerequisites pertaining to time in service. While our country appears to be constantly involved in conflicts around the world; many of these instances are not diplomatically considered “armed conflicts,” rather they are labeled as contingency operations. This vague label is used to describe military operations in foreign countries to protect our national interests. H.R.3881 would grant naturalization eligibility for service during any contingency operation.

POLICY: NATURALIZATION OF SERVICE MEMBERS

The second component of H.R.3881 is an extension of the filing period for naturalization permitted following the completion of military service. As the current bill sits, service members have only six months to file a claim for naturalization following their military service. This can become an issue if a veteran has to acquire potentially time-consuming legal documents to satisfy the naturalization prerequisites. H.R.3881 would extend this filing period from six to 12 months, allowing for a more time-sensitive application process. The third and fourth components of H.R.3881 are similar in the sense that they give autonomy to the Department of Homeland Security (DHS) to protect veterans and their families. The third component allows for the DHS to grant permanent resident status to any parent, spouse, or child of a service member who was deemed to have served honorably. The fourth component mandates official approval by the DHS before an undocumented veteran is issued a notice to appear in a removal proceeding. This approval is granted solely after a few considerations: a record of service, hardship of the armed forces, and the hardship to the veteran in question as well as their family.

While I chose this bill for its seemingly well-rounded benefits; I have found some inadequacies concerning other lesser bills also introduced into Congress. I believe this bill does not fully address a multitude of issues. The most noteworthy issues revolve around anti-deportation efforts as well as retroactive justice for those veterans who have been deported. The secondary issues entail small but largely important tweaks to the system in place regarding application wait times and time limits. H.R.3881 is not a bad bill by any means; rather I believe it can be significantly improved if it included traits from other bills to build an overall more comprehensive bill.

Elements of Distributive Justice

H.R.3881 is a well-rounded bill but there are still components of distributive justice to be desired. In terms of adequacy, the bill extends naturalization opportunities for most if not all non-citizen service members while also implementing redundancies to protect a veteran and their family if circumstances led to them being slated for removal proceedings. Regarding equity, I believe the bill serves prospective naturalization applicants as well as in-country veterans. With that said, deported veterans, in my opinion, remain underserved in the guidelines of this bill. Lastly, with the exception to deported veterans; this bill does exemplify a notable amount of equality in terms of efficacy. I believe this can be accredited to the fact that this bill is already targeted at a specific demographic in our country; this is a bill by veterans for veterans.

Assessment of Players and Power

The players and/or powers can be separated into two relatively clean-cut groups. The first group is comprised of prospective service members, current service members, and veterans. The second group is comprised of the Biden administration and the U.S. Department of Defense respectively. As you might imagine, the second group holds all the power in this exchange while the members of the first group merely have a stake in the proposed policy. Following the implementation of the 2017 Trump policy; there was a dramatic 72% drop-off in naturalization applications relative to pre-policy figures (Office of The Under Secretary of Defense, 2017). This implies that members of the military are either not meeting the new prerequisites towards naturalization, or they are simply not enlisting to begin with. The latter is a major issue considering non-citizen enlistment has been crucial in meeting recruitment quotas in every recruitment year from as early as 2002 up to 2013 (Kim, 2020). Similar to these service members, veterans who are unnaturalized and/or deported also have a stake in the proposed

POLICY: NATURALIZATION OF SERVICE MEMBERS

policy. According to an article by the National Immigration Forum, as of 2018, there were upwards of 94,000 unnaturalized veterans within our country. It is difficult to ascertain an accurate approximation regarding deported veterans, but the American Civil Liberties Union has observed 239 cases of deported U.S veterans living in 34 countries (National Immigration Forum, 2019).

The Biden administration and the U.S. Department of Defense are the powers that be and can be considered as one in the same. The Defense Department was notably utilized as a tool to serve the anti-immigration agenda perpetrated by the Trump administration. A notable example is the amassment of active-duty troops on the Southern border during the 2017's migrant caravan. An independent journalist local to the area approximated the Trump administration in conjunction with the Defense Department had mobilized upwards of 5,000 active-duty troops during this time (Aguilar, 2018). Lastly, the current Biden administration made campaign promises towards issues such as student loan forgiveness, garnering auto industry jobs, and many others. Unfortunately, while the administration is called out on these unkept promises by opposition leaders, the unkept promises toward service members are often overshadowed by seemingly larger issues at hand.

Policy Recommendations

The policy recommendations I have for the aforementioned bill are borrowed from H.R.2382 (Veteran's Pathway to Citizenship Act of 2021) as well as from H.R.4382 (Repatriate Our Veterans Act). H.R.2382 offers up small but integral policy amendments that can significantly impact the efficacy as well as the adequacy of H.R.3881. The first policy amendment entails the DHS is required to notify non-citizen service members when they become eligible for naturalization and must submit a naturalization application on their behalf. This will

POLICY: NATURALIZATION OF SERVICE MEMBERS

ensure current service members as well as veterans receive the benefits they are entitled to. The second policy amendment precedes the first through a one-year provision where applications filed in an untimely manner shall be treated as timely and reviewed accordingly. This amendment will ensure the naturalization of service members continues while the DHS is restructured to adhere to the first policy amendment.

Regarding H.R.4382 the Repatriate Our Veterans Act, the recommendation originating from this bill provides retroactive justice for veterans who have been deported since their initial service. While the policy recommendation I am borrowing seeks to repatriate deported veterans; these veterans must first meet a few requirements outlined by the creation of a “special veteran” status. These requirements entail: having served honorably in the armed forces; no convictions of serious crimes such as murder, rape, or terrorism; and lastly a strict zero-tolerance policy on those with a history of child abuse. Once a veteran meets the “special veteran” status (including immediately after their service), they will be protected from removal from the United States. The DHS will also be required to establish a program that facilitates deported veterans to return as emigrants with permanent residence status. The recommendations from both H.R.2382 and H.R.4382 would serve to address the areas on which H.R.3881 does not primarily focus. They would increase the overall distributive justice by extending benefits to current as well as past service members who otherwise would have been left out of the spotlight by H.R.3881’s focus on domestically located veterans who have recently completed their service.

Likelihood of Implementation

I believe H.R.3881 will very likely be implemented. There should be no genuine opposition or need for bipartisanship agreement for this bill. Frankly, it is a blunder of modern bureaucracy how bills of this nature have gone this long without being addressed. As the bill

POLICY: NATURALIZATION OF SERVICE MEMBERS

currently sits, it has yet to pass through the House of Representatives and remains in the “introduced” phase. Considering our administration’s promises, this bill among others of the same ilk would be a simple promise to check off the list. The only issue I foresee is the conflicting components of various bills all aiming to help the same demographic. While I noted H.R.2382 and H.R.4382 as having desirable components; these bills would ultimately be competing with H.R.3881 to be implemented as the one true policy. In an ideal world, H.R.3881 would be adopted for being the most encompassing of the bills, while the other bills would be rewritten to complement rather than conflict with H.R.3881.

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POLICY: NATURALIZATION OF SERVICE MEMBERS

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