

INA: ACT 329A - POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

Sec. 329A. [8 U.S.C. 1440 - 1]

(a) Permitting Granting of Posthumous Citizenship.-Notwithstanding any other provision of this title, the 2/ Secretary of Homeland Security shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the 2/ Secretary of Homeland Security approves an application for that posthumous citizenship under subsection (c).

(b) Noncitizens Eligible for Posthumous Citizenship.-A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States-

(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 329(a),

(2) died as a result of injury or disease incurred in or aggravated by that service, and

(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 329(a).

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

(c)3/ Requests for Posthumous Citizenship.-

(1) IN GENERAL- A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of that person--

(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

(B)by the next-of-kin.

(2) APPROVAL- The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if--

(A) the request is filed not later than 2 years after--

(i) the date of enactment of this section; or

(ii) the date of the person's death;

whichever date is later;

(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

(C) the Director finds that the person satisfied the requirement of subsection (b)(3).

(d) 4/ DOCUMENTATION OF POSTHUMOUS CITIZENSHIP- If the Director of the Bureau of Citizenship and Immigration Services approves the request referred to in subsection (c), the Director shall send to the next-of-kin of the person who is granted citizenship, a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

(e) 2/

FOOTNOTES FOR SECTION 329A

INA: ACT 329A FN 1

FN 1 Section 329A(c)(1)(A) amended by section 11030(b) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, dated November 2, 2002.

INA: ACT 329A FN 2

FN 2 Section 1703(g)(1) of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, dated November 24, 2003, removed paragraph (e). Prior to November 24, 2003, paragraph (e) read:

No Benefits to Survivors.-Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.

Section 1703(g)(2) further amended section 329A by striking the term "Attorney General" each place that the term appeared, and by inserting "Secretary of Homeland Security" in its place.

INA: ACT 329A FN 3

FN 3 Section 1704(1) of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, dated November 24, 2003, revised paragraph (c) in its entirety.

INA: ACT 329A FN 4

FN 4 Section 1704(2) of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, dated November 24, 2003, revised paragraph (d) in its entirety.

Public Law 101-249

*One Hundred First Congress of the United States of America
AT THE SECOND SESSION*

An Act

To amend the Immigration and Nationality Act to provide a procedure for an alien who dies while serving on active-duty with the United States armed forces during certain periods of hostilities to be considered a citizen of the United States at the time of the alien's death.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Posthumous Citizenship for Active Duty Service Act of 1989'.

SEC. 2. POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES.

(a) IN GENERAL- Chapter 2 of title III of the Immigration and Nationality Act is amended by inserting after section 329 (8 U.S.C. 1440) the following new section:

'POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES,

THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

SEC. 329A. (a) PERMITTING GRANTING OF POSTHUMOUS CITIZENSHIP- Notwithstanding any other provision of this title, the Attorney General shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the Attorney General approves an application for that posthumous citizenship under subsection (c).

(b) NONCITIZENS ELIGIBLE FOR POSTHUMOUS CITIZENSHIP- A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States--

(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 329(a),

(2) died as a result of injury or disease incurred in or aggravated by that service, and

(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 329(a).

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP- A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of the person only by the next-of-kin (as defined by the Attorney General) or another representative (as defined by the Attorney General). The Attorney General shall approve such a request respecting a person if--

(1) the request is filed not later than 2 years after--

(A) the date of the enactment of this section, or

(B) the date of the person's death, whichever date is later;

(2) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

(3) the Attorney General finds that the person satisfied the requirement of subsection (b)(3).

(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP- If the Attorney General approves such a request to grant a person posthumous citizenship, the Attorney General shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

(e) NO BENEFITS TO SURVIVORS- Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.'.

(b) CLERICAL AMENDMENT- The table of contents of such Act is amended by inserting after the item relating to section 329 the following new item:

Sec. 329A. Posthumous citizenship through death while on active-duty service in the armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities.'.

Speaker of the House of Representatives.
Vice President of the United States and
President of the Senate.