

119TH CONGRESS
1ST SESSION

S. _____

To amend the Immigration and Nationality Act to provide individuals approved for naturalization with the right to complete the naturalization process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Immigration and Nationality Act to provide individuals approved for naturalization with the right to complete the naturalization process, 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 “Naturalization and
5 Oath Ceremony Protection Act”.

1 **SEC. 2. RIGHT TO COMPLETE NATURALIZATION AFTER AP-**
2 **PROVAL.**

3 (a) IN GENERAL.—Chapter 2 of title III of the Immi-
4 gration and Nationality Act (8 U.S.C. 1421 et seq.) is
5 amended by inserting after section 337 the following:

6 **“SEC. 337A. RIGHT TO PARTICIPATE IN NATURALIZATION**
7 **CEREMONY.**

8 “(a) GUARANTEED COMPLETION OF NATURALIZA-
9 TION.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), an applicant whose application for natu-
12 ralization has been approved under section 335 shall
13 have the right—

14 “(A) to appear at a scheduled naturaliza-
15 tion ceremony;

16 “(B) to take the oath of allegiance under
17 section 337; and

18 “(C) to receive a certificate of naturaliza-
19 tion.

20 “(2) LIMITED EXCEPTION.—

21 “(A) IN GENERAL.—An applicant may be
22 barred from participating in a naturalization
23 ceremony only if, after the approval of the ap-
24 plication for naturalization and before the ad-
25 ministration of the oath of allegiance, the Sec-

1 retary of Homeland Security determines, based
2 on individualized and articulable facts, that—

3 “(i) the applicant is statutorily ineli-
4 gible for naturalization under this Act; or

5 “(ii) the approval was procured by
6 fraud or willful misrepresentation of a ma-
7 terial fact.

8 “(B) PROCEDURAL PROTECTIONS.—In the
9 case of a determination under subparagraph
10 (A), the Secretary of Homeland Security
11 shall—

12 “(i) provide written notice to the ap-
13 plicant stating the specific factual and
14 legal basis for the determination;

15 “(ii) except in exigent circumstances,
16 ensure service of such notice to the appli-
17 cant not later than 10 days before the date
18 on which the naturalization ceremony con-
19 cerned is scheduled;

20 “(iii) provide an opportunity for the
21 applicant to submit a written response;
22 and

23 “(iv) ensure that the determination is
24 subject to supervisory approval by an offi-

1 cer not involved in the original adjudica-
2 tion of the application for naturalization.

3 “(b) PROHIBITED BASES FOR EXCLUSION FROM
4 CEREMONY.—An applicant for naturalization shall not be
5 delayed, excluded, or removed from a naturalization cere-
6 mony on the basis of—

7 “(1) nationality, country of origin, or place of
8 birth;

9 “(2) inclusion in a categorical review, pause, or
10 heightened-risk designation that is not based on in-
11 dividualized adjudication; or

12 “(3) the initiation or existence of a generalized
13 policy, directive, or internal guidance that is not re-
14 lated to the individual eligibility of the applicant.

15 “(c) EMERGENCY EXCEPTION.—In extraordinary cir-
16 cumstances involving a specific and credible threat to na-
17 tional security posed by an individual applicant for natu-
18 ralization, the Secretary of Homeland Security may post-
19 pone administration of the oath of allegiance for not more
20 than 30 days, if written notice and individualized findings
21 are issued to the applicant not later than 72 hours before
22 the scheduled naturalization ceremony.

23 “(d) JUDICIAL REVIEW.—A denial or postponement
24 of a naturalization ceremony under this section shall con-
25 stitute a final agency action subject to judicial review

1 under section 310(c) of this Act and chapter 7 of title
2 5, United States Code.

3 “(e) ENFORCEMENT AND REMEDIES.—

4 “(1) MANDAMUS AUTHORITY.—Failure to ad-
5 minister the oath of allegiance to an approved appli-
6 cant in violation of this section shall be considered
7 an unlawful withholding of agency action.

8 “(2) ATTORNEYS’ FEES.—A prevailing appli-
9 cant in an action to enforce rights under this section
10 shall be eligible for reasonable attorneys’ fees and
11 costs.

12 “(3) PROMPT RESCHEDULING OF NATURALIZA-
13 TION CEREMONY.—In the case of an applicant for
14 naturalization who prevails in an action to enforce
15 his or her rights under this section, the Secretary of
16 Homeland Security shall schedule a new naturaliza-
17 tion ceremony for the applicant, which shall occur as
18 soon as practicable but not later than 10 days after
19 the date on which the court issues an order in such
20 action.

21 “(f) RULEMAKING AND NONDELEGATION.—

22 “(1) PROHIBITION ON SECRET OR INFORMAL
23 POLICIES.—The Secretary of Homeland Security
24 may not implement any policy, guidance, or directive

1 affecting participation in naturalization ceremonies
2 unless such policy, guidance, or directive is—

3 “(A) published in the Federal Register;
4 and

5 “(B) consistent with this section.

6 “(2) NO WAIVER.—The rights established by
7 this section may not be waived by regulation, inter-
8 nal memorandum, or Executive directive.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 for the Immigration and Nationality Act (8 U.S.C. 1101
11 et seq.) is amended by inserting after the item relating
12 to section 337 the following:

 “Sec. 337A. Right to participate in naturalization ceremony.”.