



The Dream Act, DACA, and Other Policies Designed to Protect Dreamers

With the rescission of the Deferred Action for Children Arrivals (DACA) initiative, there will be renewed pressure on Congress to pass federal legislation known as the Dream Act to protect young immigrants who are vulnerable to deportation. This fact sheet provides an overview of the Dream Act¹ and other similar legislative proposals, explains changes made to DACA on September 5, 2017, and provides information about policies at the state level that support Dreamers.

History of the Dream Act

The first version of the Development, Relief, and Education for Alien Minors (DREAM) Act was introduced in 2001.² As a result, young undocumented immigrants have since been called Dreamers. Over the last 16 years, numerous versions of the Dream Act have been introduced, all of which would have provided a pathway to legal status for undocumented youth who came to this country as children. Some versions have garnered as many as 48 co-sponsors in the Senate and 152 in the House.³

Despite bipartisan support for each bill, none have become law.⁴ The bill came closest to passage in 2010 when the House of Representatives passed the bill and the Senate came five votes short of the 60 Senators needed to proceed to vote on the bill.⁵

Current Federal Legislative Proposals

The most recent versions of the Dream Act were introduced in July 2017, in the Senate by Senators Lindsay Graham (R-SC) and Richard Durbin (D-IL) and in the House by Rep. Lucille Roybal-Allard (D-CA) and Rep. Ileana Ros-Lehtinen (R-FL).⁶

In the House of Representatives, members have also introduced legislative proposals that would address undocumented youth, but are variations on the original Dream Act. For example, Rep. Carlos Curbelo (R-FL) proposed the Recognizing America's Children (RAC) Act, which has a more restrictive path to legalization than the Dream Act bill currently pending in the Senate and House.⁷ Rep. Luis Gutierrez (D-IL) introduced the American Hope Act, which has a more generous path to legalization than any of the Dream Act bills.⁸ In addition, Rep. Mike Coffman (R-CO) introduced a proposal, Bar Removal of Individuals who Dream and Grow our Economy Act (BRIDGE Act), that would not create a permanent legal status for Dreamers, but instead would provide deferred action from deportation to Dreamers for only three years.⁹

While some are more generous and others more restrictive, each of these legislative proposals in some way mimics the original Dream Act legislation.

What Does the Dream Act do?

The Senate version of the Dream Act, introduced in July 2017, allows current, former,¹⁰ and future¹¹ undocumented high-school graduates and GED recipients a three-step pathway to U.S. citizenship through college, work, or the armed services.

STEP 1: CONDITIONAL PERMANENT RESIDENCE

An individual is eligible to obtain conditional permanent resident (CPR) status for up to eight years, which includes work authorization, if the person:

- entered the United States under the age of 18;
- entered four years prior to enactment and has since been continuously present;
- has not been convicted of a crime where the term of imprisonment was more than a year, or convicted of three or more offenses for which the aggregate sentence was 90 days or more (with an exception for offenses which are essential to a person's immigration status); and
- has been admitted to an institution of higher education, has graduated high school or obtained a GED, or is currently enrolled in secondary school or a program assisting students to obtain a diploma or GED.¹²

In addition, anyone who has DACA would be immediately granted CPR status.

STEP 2: LAWFUL PERMANENT RESIDENCE

Anyone who maintains CPR status can obtain lawful permanent residence (LPR status or a "green card") by satisfying one of the following requirements:

- Higher education: Complete at least two years of higher education;
- Military service: Complete at least two years of military service with an honorable discharge; or
- Work: Demonstrate employment over a total period of three years.

Individuals who cannot meet one of these requirements can apply for a "hardship waiver" if the applicant is a person with disabilities, a full-time caregiver of a minor child, or for whom removal would cause extreme hardship to a U.S. citizen spouse, parent, or child.

STEP 3: NATURALIZATION

After maintaining LPR status for five years, an individual can apply to become a U.S. citizen.

According to the Migration Policy Institute, as many as 3.4 million individuals would qualify under the 2017 version of the Dream Act, and over 1.5 million would eventually obtain a green card.¹³

Deferred Action for Childhood Arrivals

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano created [Deferred Action for Childhood Arrivals](#) (DACA). DACA is an exercise of prosecutorial discretion, providing temporary relief from deportation (deferred action) and work authorization to certain young undocumented immigrants brought to the United States as children.¹⁴ DACA has enabled almost 800,000 eligible young adults to work lawfully, attend school, and plan their lives without the constant threat of deportation, usually to an unfamiliar country.¹⁵ However, unlike federal legislation, DACA does not provide a permanent legal status to individuals and must be renewed every two years.

On September 5, 2017, Acting Secretary of Homeland Security Elaine Duke rescinded the 2012 DACA memorandum and announced a “wind down” of DACA.¹⁶ Effective immediately, no new applications for DACA will be accepted. Current DACA beneficiaries whose status is due to expire before March 5, 2018 are permitted to renew their status for an additional two years if they apply by October 5, 2017.¹⁷ Any person for whom DACA expires as of March 6, 2018, will no longer have deferred action or employment authorization.¹⁸

State Policies that Protect Dreamers

States cannot legalize the status of undocumented immigrants, but they may address collateral issues that stem from being undocumented. Most notably, numerous states have enacted legislation that helps overcome barriers to higher education faced by many undocumented youth. Pursuant to some state laws and policies, undocumented students may be able to attend state universities and qualify for in-state tuition.

Colleges and universities each have their own policies about admitting undocumented students; some deny them admission while others allow them to attend. However, even when undocumented students are allowed to attend college, the tuition is often prohibitively expensive. If students cannot prove legal residency in a state, they must pay the much higher out-of-state or international-student tuition rates. Further, undocumented students do not qualify for federal student loans, work study, or other financial assistance. As a result, it is extremely difficult for undocumented students to afford to attend a public university.¹⁹

To help undocumented students afford college, at least 18 states have passed laws that provide undocumented students with the opportunity to receive in-state tuition. California, Colorado, Connecticut, Florida, Illinois, Kansas, Maryland, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, and Washington permit undocumented students who have attended and graduated from the state’s primary and secondary schools to pay the same college tuition as other state residents.²⁰ The laws generally require undocumented students to attend a school in the state for a certain number of years and graduate from high school in the state.²¹

Endnotes

1. Although the first “DREAM” act was known by its acronym in all capital letters, subsequent proposals have adopted the title “Dream.”
2. S. 1291, 107th Cong. (2001).
3. S. 1545, 108th Cong. (2003); H.R. 1648, 108th Cong. (2003).
4. S. 1291, 107th Cong. (2001); S. 1545, 108th Cong. (2003); H.R. 1648, 108th Cong. (2003); S. 2075, 109th Cong. (2005); H.R. 5131, 109th Cong. (2005); S. 2205, 110th Cong. (2007); H.R. 1275, 110th Cong. (2007); H.R. 5241, 111th Cong. (2010); S. 729, 111th Cong. (2010); S. 3992, 111th Cong. (2010); H.R. 1842, 112th Cong. (2011); S. 952, 112th Cong. (2011); H.R. 1468, 115th Cong. (2017); H.R. 3591, 115th Cong. (2017). The comprehensive immigration reform bill S. 744, which passed the Senate in 2013 with bipartisan support from 68 Senators, included special legalization provisions for Dreamers.
5. H.R. 5241, 111th Cong. (2010); 12/18/2010 Cloture on the motion to agree to House amendment to Senate amendment not invoked in Senate by Yea-Nay Vote. 55 – 41.
6. S. 1615, 115th Cong. (2017); H.R. 3440, 115th Cong. (2017).
7. H.R. 1468, 115th Cong. (2017).
8. H.R. 3591, 115th Cong. (2017).
9. H.R. 496, 115th Cong. (2017).
10. S. 1615, 115th Cong. (2017).
11. Ibid.
12. S. 1615, 115th Cong. § 3 (2017).
13. Jeanne Batalova and Ariel Ruiz, “MPI Estimates of Who Might Benefit under 2017 DREAM Act Bills in Congress,” (Washington, DC: Migration Policy Institute, July 2017), <http://www.migrationpolicy.org/content/mpi-estimates-who-might-benefit-under-2017-dream-act-bills-congress>.
14. To be eligible, DACA applicants have had to meet the following requirements:
 - Arrived in the United States before turning 16; Were under the age of 31 on June 15, 2012;
 - Continuously resided in the United States from June 15, 2007 to the present;
 - Were physically present in the United States on June 15, 2012, as well as at the time of requesting deferred action;
 - Entered without inspection before June 15, 2012, or any previous lawful immigration status expired on or before June 15, 2012;
 - Are either in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are honorably discharged veterans of the U.S. Coast Guard or the U.S. Armed Forces;
 - And have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors occurring on different dates and arising out of different acts, omissions, or schemes of misconduct, and do not otherwise pose a threat to national security or public safety
15. “Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake, Biometrics and Case Status Fiscal Year 2012-2017,” U.S. Citizenship and Immigration Services, last updated March 31, 2017, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/AlI%20Form%20Types/DACA/daca_performancedata_fy2017_qtr2.pdf.
16. Memorandum from Elaine Duke, Acting Sec., Department of Homeland Security, to James McCament, Acting Director, U.S. Citizenship and Immigration Services, Thomas Homan, Acting Director, U.S. Immigration and Customs Enforcement, Kevin McAleenan, Acting Commissioner, U.S. Customs and Border Protection, Joseph Maher, Acting General Counsel, Ambassador James Nealon, Assistant Secretary International Engagement, Subj: Memorandum on Recession of Deferred Action for Childhood Arrivals (DACA) (September 5, 2017) <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.
17. Ibid.
18. Ibid.
19. Roberto G. Gonzales, *Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students* (Washington, DC:

Immigration Policy Center, American Immigration Law Foundation, October 2007), p. 2; According to the Migration Policy Institute, almost 75 percent of undocumented children live in families below 185 percent of the federal poverty line, compared to just 40 percent of native-born children. The average income of undocumented immigrant families is 40 percent lower than both their native-born and legal-immigrant counterparts.

20. Undocumented Student Tuition: Overview,” National Conference of State Legislatures, last updated October 29, 2015, <http://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx>.
21. Ibid.