

“DREAM ACT” REINTRODUCED IN CONGRESS



by

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March 26, 2009: A proposal which would allow certain undocumented students who entered the United States as children to obtain permanent resident status has once again been introduced in Congress. The proposal would also allow individual states to determine residency requirements for in-state tuition purposes, meaning that individual states could allow undocumented students to be considered residents of the state for tuition purposes.

On March 26, 2009, both the U.S. Senate and the U.S. House of Representatives introduced proposals commonly known as the “DREAM Act”. The Senate version of the bill (S. 729) was introduced by Senator Richard Durbin (D-Illinois) and Senator Richard Lugar (R-Indiana) and is known as the “Development, Relief, and Education for Alien Minors (DREAM) Act of 2009”. The House version of the bill (H.R. 1751) is known as the “American Dream Act”. It was introduced by Representative Howard Berman (D-California) and has 20 co-sponsors to date (5 Republicans and 15 Democrats), Representative Lucille Roybal-Allard (D-California) and Lincoln Diaz-Balart (R-Florida).

In order for undocumented students to gain permanent resident status, the current version of the bills provide that the DREAM Act applicant must meet the following requirements:

1. **Physical Presence:** The DREAM Act applicant must have been physically present in the United States for a continuous period of at least five years at the time the DREAM Act becomes law. The period of continuous presence will be broken if he has departed the U.S. for a single trip of more than 90 days or has been outside the United States for more than a total of 180 days during the 5-year period.
2. **Entered U.S. While Under Age 16:** He must have entered (legally or illegally) the United States while under age 16.
3. **Good Moral Character:** He must be a person of good moral character.
4. **Not Inadmissible:** He must not be inadmissible (prevented from adjusting status) under INA Section 212(a)(2) (certain crimes), INA Section 212(a)(3) (terrorism),

INA Section 212(a)(6)(E) (alien smuggling), INA Section 212(a)(10)(C) (international child abduction).

5. **Not Deportable:** He must not be deportable under INA Section 237(a)(1)(E) (alien smuggling), INA Section 237(a)(2) (certain crimes), or INA Section 237(a)(4) (terrorism).
6. **School Attendance:** At the time of applying for green card status under the DREAM Act, he must be admitted to an institution of higher education (typically a 4-year college or university or a community college) or must have graduated from high school or must have received a general education development (GED) certificate.
7. **No Final Order of Exclusion, Deportation or Removal:** He must not have received or been the subject of a final order of exclusion, deportation or removal unless he was under age 16 at the time of the order or has remained in the United States since the order was entered on some basis.
8. **Under Age 35:** He must be under age 35 on the date the DREAM Act becomes law.
9. **File Application:** He must file an application with USCIS in order to qualify for DREAM Act benefits during a time period to be set.

Assuming the DREAM Act applicant meets the above requirements, the current proposal provides that he would receive permanent resident (“green card”) status on a conditional basis for a period of six (6) years. To remove or terminate the conditional basis of his green card, the DREAM Act beneficiary must prove that he has obtained a college degree, or has completed at least 2 years of college education towards a bachelor’s degree, or has served in the U.S. military for at least 2 years.

If, on the date of the DREAM Act becomes law, a person already meets the first 5 requirements listed above (has been physically present in the U.S. for 5 continuous years, entered the U.S. while under age 16, is a person of good moral character, is not inadmissible under any of the specified grounds, and is not deportable under any of the specified grounds), and has already obtained a college degree (or completed 2 years of college toward a degree) or has already served at least 2 years in the U.S. military, then he can obtain permanent residence as well under the DREAM Act. Under the current proposal, it will not matter that he has already completed the requirements when the law goes into effect.

The DREAM Act makes sense and should be passed by the Congress. After all, many of the estimated 65,000 undocumented children and young adults who graduate from U.S. high schools each year and who could benefit from the DREAM Act were brought to the United States as young children. To them, the United States is the only home they know. Those that have worked hard and stayed out of trouble deserve an opportunity to legalize

their status and to pay in-state tuition rates to attend public colleges and universities. In short, the DREAM Act would further their pursuit of the American dream!

As noted above, the DREAM Act was introduced in both the U.S. Senate and the U.S. House on March 26, 2009. As such, it is only a proposal at this time. Similar proposals have been defeated in prior sessions of Congress. However, there is strong bi-partisan support the DREAM Act in this year's Congress. Currently, both versions of the DREAM Act (S. 729 and H.R. 1751) have been referred to various Committees in the U.S. Senate and the U.S. House. Each of these Committees must vote favorably on the bills in order for the full U.S. Senate and the full U. S House to consider and vote in favor of each bill before it can become law. Therefore, it is important to contact both of your U.S. Senators and your Representative in the U.S. House of Representatives to urge them to support this important piece of legislation. You know the anti-immigration folks will be calling them and urging them to vote against the DREAM Act. Pro-immigrant voices need to be heard!

To view the status of the Senate bill (S. 729), visit <http://www.govtrack.us/congress/bill.xpd?bill=s111-729>. To view the status of the House bill (H.R. 1751), visit <http://www.govtrack.us/congress/bill.xpd?bill=h111-1751>. As always, the immigration lawyers at Long, Chang & Associates, L.L.P. will monitor the progress of the DREAM Act and will publish updates on www.longchangoonline.com as this legislation and other important immigration proposals move forward. Now is the time to support sensible reform of our immigration laws, starting with the DREAM Act!

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