

MICHIGAN IMMIGRANT RIGHTS PROJECT

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The DREAM Act

Summary as of 4/15/2009

On March 26, 2009, Senator Richard Durbin (D-IL) introduced the “*Development, Relief, and Education for Alien Minors Act of 2009*”, known as The DREAM Act. The bill number is S. 729, and it has 19 co-sponsors (16 Democrats, 2 Republicans, and 1 Independent). Neither Michigan Senator is a co-sponsor. A similar bill, “The American Dream Act” (H.R. 1751), has been introduced in the U.S. House by Rep. Howard Berman (D-CA).

According to Senator Durbin, the DREAM Act is “a narrowly tailored, bipartisan measure which would permit undocumented students to become permanent residents if they came here as children, are long-term U.S. residents, have good moral character, and attend college or enlist in the military for at least two years.”

What Does the DREAM Act do?

In-State Tuition

The DREAM Act would repeal a 1996 law that discourages states from permitting undocumented students to be eligible for in-state tuition rates at public colleges and universities. States would have the authority to determine residency for in-state tuition purposes.

Immigration Benefits for Certain Long-Time Residents Who Entered the U.S. as Children

Step 1: Conditional Resident Status

The Department of Homeland Security may cancel removal of, and adjust to conditional permanent resident status, an alien who meets the following provisions:

- (1) The alien has been physically present in the U.S. for a continuous period of at least 5 years immediately preceding the enactment of this Act **and** had not reached the age of 16 years at the time of initial entry to the U.S.
- (2) The alien has been a person of good moral character since the time of application. Aliens would be ineligible based on certain criminal convictions, terrorist grounds, and smuggling grounds.
- (3) At the time of application, the alien has been admitted to an institution of higher education in the U.S., or has earned a high school diploma, or obtained a G.E.D. in the U.S.

- (4) The alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien:
 - (a) has remained in the U.S. under color of law after such order was issued; or
 - (b) received the order before reaching age 16.
- (5) The alien had not yet reached age 35 on the date of enactment of the Act.

A stay of removal would be available to an alien who meets provisions 1, 2, and 4 above if the alien is at least 12 years old and enrolled in a primary or secondary school.

If approved, the alien shall be granted conditional permanent resident status for a period of 6 years. The status shall be terminated if the alien does not maintain good moral character, if he commits certain criminal, terrorist, or smuggling violations. The status could also be terminated if the alien becomes a public charge, or if he has received a dishonorable or other than honorable discharge from the armed services.

Step 2: Permanent Resident Status

In order to adjust status from conditional permanent resident to lawful permanent resident, the alien must submit an application to the Department of Homeland Security. The application must be filed within the period that begins 180 days before the conditional permanent resident status expires and ends 2 years after the expiration of the conditional permanent resident status.

In order to be granted lawful permanent resident status, the alien must show the following:

- (1) The alien has demonstrated good moral character during the entire period that the alien has been a conditional permanent resident. The alien could be found ineligible based on certain criminal, terrorist, or smuggling grounds.
- (2) The alien has not abandoned residence in the U.S. by being absent for more than a total of 365 days during the conditional residence period.
- (3) The alien has either:
 - acquired a degree from an institution of higher education in the U.S., or
 - has completed at least 2 years in good standing in a program for a bachelor's degree or higher degree in the U.S., or
 - has served in the armed services for at least 2 years and, if discharged, has received an honorable discharge
- (4) The alien has provided a list of each secondary school that the alien has attended in the U.S.

If the alien only meets provisions (1) through (2) above, the alien may apply for a hardship waiver if he can demonstrate compelling circumstances for the inability to complete the requirements described in provision (3) above, and if the alien demonstrates that removal from the U.S. would result in exceptional and extremely unusual hardship to the alien or the alien's parent, spouse, parent, or child who is a citizen or lawful permanent resident of the U.S.

Conditional Resident status can be extended upon a showing of good cause if the alien needs more time to fulfill the requirements of provision (3) above.