

Section-by-Section Summary of the DREAM Act of 2007 (S. 2205)¹

October 18, 2007

Section 1. Short Title. Contains the short title of this bill, the “DREAM Act of 2007.”

Section 2. Definitions. Would provide that ‘institution of higher education’ is defined by the Higher Education Act of 1965, 20 U.S.C. Sec. 1001 and that ‘uniformed services’ is defined by 10 U.S.C. 101(a).

Section 3. Cancellation of Removal and Adjustment of Status of Certain Long-Term Residents Who Entered the United States as Children. Would provide that an alien who is inadmissible or deportable from the United States may qualify for an initial conditional period of six years during which the alien may earn permanent resident status if he or she:

- Has been continuously present in the United States for at least five years prior to enactment,
- Was under 16 years of age at the time of entry,
- Has graduated from high school or obtained a GED in the United States, or has been admitted to an institution of higher education in the United States,
- Can demonstrate good moral character,
- Is not inadmissible or deportable under specifically enumerated grounds (e.g. criminal and national security grounds), and
- Is age 29 or younger on date of enactment of this Act.

There would be a limited waiver applicable to grounds of inadmissibility under Immigration and Nationality Act (INA) Sec. 212(a)(6) and deportability under INA 237(a)(1), (3), and (6) for humanitarian or family unity purposes, or if it is in the public interest. Persons previously ordered deported would not be eligible for adjustment of status, except for those who remained within the United States under color of law or who received the deportation order while under the age of sixteen.

For purposes of this section, continuous residence would be defined to be broken by a period out of the United States of more than ninety days in one visit, or one hundred and eighty days in the aggregate during the five year period. These time periods would be extendable if the applicant shows exceptional circumstances no less compelling than serious illness to self, or death or serious illness to an immediate family member.

Other provisions of section 4 would provide that: (1) persons who adjust status under its provisions will not count against the numerical limitations applicable to other categories of cancellation of removal; (2) the Secretary of Homeland Security must publish

¹ This section-by-section analysis was prepared by the National Immigration Law Center and the American Immigration Lawyers Association.

proposed regulations within 180 days of enactment; and (3) aliens may not be removed while they have a pending application for conditional status under the Act.

Section 4. Conditional Permanent Resident Status. Would provide the requirements and mechanism by which conditional residents, after six years, may meet the conditions of the Act and become permanent residents. The requirements would be, within the 6-year period, to earn a degree from an institution of higher education or to complete at least two years towards a bachelor's or higher program, or to serve honorably in the military for at least two years. The applicant would be able to obtain a waiver of these requirements but only at the discretion of the Secretary of Homeland Security or the Attorney General and only if the applicant demonstrates 'exceptional and extremely unusual hardship.'

In addition, the applicant would be required to have continued to meet the requirements for admissibility and good moral character listed in Section 4. The alien would not be able to have become a public charge during the six-year period. The applicant also would also be required to have maintained continuous residence, as defined by this act, in the United States. If the applicant were to successfully complete the enumerated requirements, the six-year conditional period would also satisfy the residency requirements for naturalization, subject to the limitations set forth in section 316 of the Immigration and Nationality Act.

Section 5. Treatment of Certain Applicants. Would provide that if at the time of enactment an alien has already satisfied all requirements under sections 4 and 5 (i.e., satisfied the higher education or military service requirements and all other requirements) then that alien would be able to adjust to permanent resident status without returning to school or serving in the military again. Those who would benefit from this section would be required to undergo the six-year conditional period and comply with all other requirements.

Section 6. Exclusive Jurisdiction. Would provide that the Secretary of Homeland Security has jurisdiction to adjudicate affirmative applications for benefits, but the jurisdiction would transfer to the Attorney General when the applicant is in removal proceedings.

Section 7. Stay of Removal of Certain Aliens Enrolled in Primary or Secondary School. DREAM Act benefits would be available defensively to those in proceedings. Children 12 years of age or older who satisfy all other requirements of this act but who are still enrolled full time in primary or secondary school would be granted a stay of proceedings by the Attorney General. To the extent permissible under existing law, a child whose removal proceedings are stayed would be eligible to obtain work authorization. Section 7 does not preempt any existing federal or state labor laws, including laws governing minimum age to work.

Section 8. Penalties for False Statements in Application. Would provide criminal penalties for falsifying an application for benefits under this Act, including fine, imprisonment or both.

Section 9. Confidentiality of Information. The Government would not be permitted to use information gathered in processing an application under the DREAM Act to initiate removal proceedings against anyone identified in the application. However, the Attorney General or the Secretary of Homeland Security would be *required* to provide information to any law enforcement entity investigating any of the crimes or national security violations that render an immigrant inadmissible under the INA, when such information is requested by the law enforcement entity. Information also would be provided to a coroner for the purpose of identifying a deceased individual. Violation of the confidentiality provisions of this section would lead to a fine of up to \$10,000.

Section 10. Higher Education Assistance. Would limit the types of federal financial assistance for higher education that DREAM Act beneficiaries may receive. They would be eligible for noncash services (such as tutoring, child care, etc.) under Title IV of the Higher Education Act of 1965 (HEA), student loans under Parts B and D of HEA, and work study programs under Part C of Title IV of HEA. They would be ineligible for financial assistance under any other provision of HEA, including Pell Grants or other grants or scholarships.

Section 11. GAO Report. Would require the Government Accounting Office (GAO) to produce a study, seven years after enactment, concerning the number of aliens who apply for and receive benefits under this Act.