



IMMIGRATION LAW & POLICY

Immigrant Student Adjustment and Access to Higher Education

DREAM ACT REINTRODUCED IN SENATE

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A new version of the bipartisan DREAM Act, which addresses the tragedy of young people who grew up in the United States and have graduated from U.S. high schools but whose future is circumscribed by current immigration laws, has been introduced in the Senate by Senators Orrin Hatch (R-UT) and Richard Durbin (D-IL). Under current law, these young people generally derive their immigration status solely from their parents, and when the parents are undocumented or in immigration limbo, their children have no mechanism to obtain legal residency. The Development, Relief, and Education for Alien Minors (DREAM) Act (S. 1545), introduced on July 31, 2003, provides such a mechanism for those who are able to meet certain conditions.

The leading bill in the House addressing the same issue is HR 1684 (Cannon, R-UT), known as the Student Adjustment Act. HR 1684 was introduced this spring and currently has 66 cosponsors from both parties.

Like last year's version of the DREAM Act, which was also sponsored by Sen. Hatch, S. 1545 would enact two major changes in current law:

- Eliminate the federal provision that discourages states from providing in-state tuition without regard to immigration status; and
- Permit some immigrant students who have grown up in the U.S. to apply for legal status.

But S. 1545 differs in some important respects from its predecessor.

Unlike last year's bill, DREAM 2003 sets up a two-stage process for applying for legal status. Immigrant students who have grown up in the U.S., graduated from high school here, and can demonstrate good moral character would initially qualify for "conditional lawful permanent resident" status, which would normally last for six years. During the conditional period, the immigrant would be required to go to college, join the military, or work a significant number of hours of community service. At the end of the conditional period, those who meet at least one of these requirements would be eligible for regular lawful permanent resident status.

If enacted, DREAM 2003 would have a life-changing impact on the students who qualify, dramatically increasing their average future earnings-and, consequently, the amount of taxes they would pay-while significantly reducing criminal justice and social services costs to taxpayers.

Advocates believe that S. 1545 has a reasonable chance of passage in this session of Congress, in large part because Senators Hatch and Durbin were willing to bridge the bitter partisan divisions that have plagued the Senate this year. The bill already has 15 cosponsors representing a wide swath of the political spectrum; others are expected to announce their support now that Congress has reconvened after its summer break.

The following are some of the key features of DREAM 2003:

Restore State Option to Provide In-State Tuition Benefit. DREAM 2003 would repeal section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which discourages states from providing in-state tuition or other higher education benefits without regard to immigration status.

Who Qualifies for Legal Residency. Under DREAM 2003, most students of good moral character who came to the U.S. before they were sixteen years old and at least five years before the date of the bill's enactment would qualify for conditional permanent resident status upon acceptance to college, graduation from high school, or being awarded a general equivalency diploma (GED). Students would not qualify for this relief if they had committed crimes, were a security risk, or were inadmissible or removable on certain other grounds.

Conditional Permanent Resident Status. Qualifying students would be granted conditional permanent resident status, which would be similar to lawful permanent resident status, except that it would be awarded for a limited period of time-6 years, under normal circumstances-instead of for an indefinite one. Students with conditional permanent resident status would be able to work, drive, go to school, and otherwise participate normally in day-to-day activities on the same terms as other Americans, except that they would not be able to travel abroad for lengthy periods. Time spent by young people in conditional permanent resident status would count towards the residency requirements for naturalization to U.S. citizenship.

Requirements to Lift the Condition and Obtain Regular Lawful Permanent Resident Status. At the end of the conditional period, regular lawful permanent resident status would be granted if, during the conditional period, the immigrant had maintained good moral character, avoided lengthy trips abroad, and met at least one of the following three criteria:

1. Graduated from a 2-year college or a vocational college that meets certain criteria, or studied for at least 2 years towards a bachelor's or a higher degree; or
2. Served in the U.S. armed forces for at least 2 years; or
3. Performed at least 910 hours of volunteer community service.

The 6-year time period for meeting these requirements would be extendable upon a showing of good cause, and the Dept. of Homeland Security would be empowered to waive the requirements altogether if compelling reasons such as disability prevented their completion and if removal of the student would result in exceptional and extremely unusual hardship to the student, or to the student's spouse, parent or child.
