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Unauthorized Childhood Arrivals, DACA, and Related Legislation

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SUMMARY

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Unauthorized Childhood Arrivals, DACA, and Related Legislation

On June 4, 2019, the House passed the American Dream and Promise Act of 2019 (H.R. 6) on a vote of 237 to 187. Title I of the bill, the Dream Act of 2019, would establish a process for certain unauthorized immigrants who entered the United States as children (known as unauthorized childhood arrivals) to obtain lawful permanent immigration status. This vote on H.R. 6 was the latest in a line of House and Senate floor votes on legislation to grant some type of immigration relief to unauthorized childhood arrivals.

As commonly used, the term "unauthorized childhood arrivals" encompasses both individuals who entered the United States unlawfully, and individuals who entered legally but then lost legal status by violating the terms of a temporary visa. There is no single set of requirements that defines an unauthorized childhood arrival. Individual bills include their own criteria.

Legislation on unauthorized childhood arrivals dates to 2001. The earliest bills, which received Senate committee action in the 107th and 108th Congresses, only addressed unauthorized childhood arrivals. More recent proposals receiving legislative action have combined provisions on unauthorized childhood arrivals with other immigration provisions—in some cases, these have been major bills to reform the immigration system, such as Senate-passed S. 744 in the 113th Congress. None of these bills have been enacted into law.

Most measures on unauthorized childhood arrivals that have seen legislative action have proposed mechanisms for eligible individuals to become lawful permanent residents (LPRs), typically through a two-stage process. Criteria to obtain a conditional or temporary status (stage 1) commonly include continuous presence in the United States for a minimum number of years prior to the date of the bill's enactment, initial entry into the United States as a minor, and satisfaction of specified educational requirements. Criteria to become a full-fledged LPR (stage 2) typically include satisfaction of additional educational requirements or service in the Armed Forces, or, in some cases, employment. Proposals to grant legal immigration status to unauthorized childhood arrivals also require applicants to clear criminal and security-related ineligibility criteria.

In June 2012, following unsuccessful efforts in the 111th Congress to enact legislation to grant LPR status to unauthorized childhood arrivals, the Department of Homeland Security (DHS) announced the Deferred Action for Childhood Arrivals (DACA) initiative. Under this initiative, eligible unauthorized childhood arrivals could receive renewable two-year protection from removal and work authorization. The eligibility criteria for an initial grant of DACA were broadly similar to those in earlier bills on unauthorized childhood arrivals and included continuous residence in the United States since June 2007, initial U.S. entry before age 16, and satisfaction of educational requirements or service in the Armed Forces.

In September 2017, Attorney General Jeff Sessions announced that DACA was being terminated. Due to court rulings to date, however, past recipients continue to be able to request DACA. The U.S. Supreme Court is scheduled to hear arguments on the DACA rescission on November 12, 2019.

According to USCIS data, there were approximately 669,080 active DACA recipients as of April 30, 2019, and the total number of individuals who had ever been granted DACA was 822,063 as of July 31, 2019. These DACA recipient numbers can be compared to estimates of the DACA-eligible population. The Migration Policy Institute has estimated that as of 2018, 1,302,000 individuals met the original DACA eligibility requirements and an additional 356,000 met the age, residence, and immigration status criteria but not the educational requirements.

It remains to be seen whether H.R. 6, as passed by the House, or another measure to grant legal status to unauthorized childhood arrivals will be enacted into law.

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Introduction

On June 4, 2019, the House passed the American Dream and Promise Act of 2019 (H.R. 6) on a vote of 237 to 187. Title I of the bill, the Dream Act of 2019, would establish a process for certain unauthorized immigrants who entered the United States as children (known as unauthorized childhood arrivals) to obtain lawful permanent immigration status. This vote on H.R. 6 was one of several House and Senate floor votes since 2018—and the only successful one—on legislation to grant some type of immigration relief to unauthorized childhood arrivals.

As commonly used, the term "unauthorized childhood arrivals" encompasses both individuals who entered the United States unlawfully and individuals who entered legally but then lost legal status, by, for example, overstaying an authorized temporary period of stay. There is no single set of requirements that defines an unauthorized childhood arrival. Individual bills include their own criteria.

This report considers House and Senate measures on unauthorized childhood arrivals that have seen legislative action since 2001, focusing in particular on legislation considered in the 115th and 116th Congresses. It also discusses the related Deferred Action for Childhood Arrivals (DACA) initiative and DACA-related data. The material is presented chronologically to trace the development of legislative proposals on unauthorized childhood arrivals and highlight the interplay between legislative action on these measures and developments related to the DACA initiative.

Original Dream Acts in the 107th and 108th Congresses

Legislation on unauthorized childhood arrivals dates to 2001. That year, the Development, Relief, and Education for Alien Minors (DREAM) Act (S. 1291) was introduced in the 107th Congress to provide a pathway to lawful permanent resident (LPR) status for eligible individuals. LPRs can live and work in the United States permanently and can become U.S. citizens through the naturalization provisions in the Immigration and Nationality Act (INA).[1] In most cases, LPRs must reside in the United States for five years before they can naturalize.

S. 1291 sought to provide immigration relief to unauthorized childhood arrivals who, like the larger unauthorized population, were typically unable to work legally and were subject to removal from the United States. Many policymakers viewed this subset of the unauthorized population more sympathetically than unauthorized immigrants on the whole because unauthorized childhood arrivals had arrived in the United States as children and were thus not generally seen as being responsible for their unlawful status.

Although not all subsequent bills to grant LPR status to unauthorized childhood arrivals were entitled the "DREAM Act" and no subsequent bill included exactly the same provisions as S. 1291, such legislation came to be known generally as the "Dream Act" and its intended beneficiaries as "Dreamers."[2]

[1] Act of June 27, 1952, ch. 477, codified, as amended, at 8 U.S.C. §§1101 et seq. The naturalization provisions are INA §§310 et seq., 8 USC §§1421 et seq.

[2] "Dream Act" is used here rather than "DREAM Act" because that is how the legislation is more commonly referred to today. In addition, some bills use "Dream" in their names but do not treat the word as an acronym.

In general, the potential beneficiaries of such bills did not have an avenue under the INA to become LPRs. The most common way for a foreign national to adjust status (become an LPR while in the United States) is through INA provisions that require the individual to be eligible for an immigrant visa and to have such a visa immediately available to him or her through the permanent immigration system.[3] Individuals are most often eligible for immigrant visas based on a qualifying family relationship (to a U.S. citizen or LPR) or an employment tie. Among the other criteria to adjust status under these provisions, the individual must have been "inspected and admitted or paroled into the United States"; thus, individuals who entered the United States unlawfully are not eligible.[4] In addition, with limited exceptions, an individual is not eligible for adjustment of status if he or she falls in a disqualified category, such as someone who engaged in unauthorized employment or "who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States."[5]

S. 1291 in the 107th Congress and a subsequent DREAM Act bill (S. 1545) introduced in the 108th Congress were reported by the Senate Judiciary Committee. Neither bill saw further action.[6]

Framework for Subsequent Proposals

S. 1545, as reported in the 108th Congress, contained the basic features of many later proposals to provide LPR status to unauthorized childhood arrivals. It applied to foreign nationals who were "inadmissible or deportable from the United States"—this is how the bill described its target unauthorized population. The grounds of inadmissibility in the INA are the grounds on which a foreign national can be denied admission to the United States. The grounds of deportability are the grounds on which a foreign national can be removed from the United States.[7]

S. 1545, as reported, proposed a two-stage process for eligible individuals to become LPRs. Criteria to obtain conditional status (stage 1) included continuous presence in the United States for five years prior to the date of the bill's enactment, initial entry into the United States before age 16, and satisfaction of specified educational requirements. Criteria to become a full-fledged LPR (stage 2) included completion of at least two years in a bachelor's or higher degree program or in the Armed Forces,[8] subject to a hardship exception. At either stage, an applicant could have been disqualified if he or she was inadmissible to or deportable from the United States under specified grounds in the INA.

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[3] INA §245 (8 U.S.C. §1255). For information about the visa queue, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

[4] INA §245(a) (8 U.S.C. §1255(a)). There is an exception for battered immigrants to the requirement for inspection/admission or parole.

[5] INA §245(c) (8 U.S.C. §1255(c)). Another provision (INA §245(i)), which was first enacted in 1994 as a temporary provision and then extended, made adjustment of status available to individuals in the United States who had the requisite family or employment relationships and satisfied other requirements but had entered the country without inspection or fell within a disqualified category. Last extended by the 106th Congress, INA §245(i) is limited to individuals who are beneficiaries of immigrant visa petitions or labor certification applications filed by April 30, 2001. For further information, see archived CRS Report RL31373, *Immigration: Adjustment to Permanent Resident Status Under Section 245(i)*.

[6] For further discussion of bills introduced in these Congresses, see archived CRS Report RL31365, *Unauthorized Alien Students: Legislation in the 107th and 108th Congresses*.

[7] The INA grounds of inadmissibility are in INA §212(a) (8 U.S.C. §1182(a)), and the grounds of deportability are in INA §237(a) (8 U.S.C. §1227(a)).

[8] The term "Armed Forces," as defined in 10 U.S.C. §101(a)(4), means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

S. 1545 would have granted qualifying childhood arrivals conditional LPR status. Describing that status, Department of Homeland Security (DHS) regulations state, "Unless otherwise specified, the rights, privileges, responsibilities and duties which apply to all other lawful permanent residents apply equally to conditional permanent residents, including but not limited to the right to apply for naturalization (if otherwise eligible)."[9] Regarding naturalization, S. 1545 provided that the time spent in conditional LPR status would have counted toward the LPR residence requirement for naturalization. At the same time, it stated that an individual could only apply to naturalize once the conditional basis of his or her status were removed (and he or she was a full-fledged LPR).

Other provisions in S. 1545 addressed eligibility for higher education benefits. The bill provided that individuals obtaining LPR status under its terms would only be eligible for certain forms of federal student aid under Title IV of the Higher Education Act of 1965,[10] namely federal student loans, federal Work-Study programs, and services.[11] Unlike LPRs generally, they would seemingly not have been eligible for grant aid (e.g., federal Pell Grants). At the same time, S. 1545 proposed to eliminate a provision enacted in 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)[12] that restricts the ability of states to provide higher education benefits to certain unauthorized immigrants. Section 505 of IIRIRA reads:

> an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.[13]

Legislative Activity in the 109th through the 111th Congresses

Beginning in the 109th Congress, proposals on unauthorized childhood arrivals—which had received action in earlier Congresses as stand-alone bills—were incorporated into larger measures. In the 109th through the 111th Congresses, several measures to grant LPR status to unauthorized childhood arrivals were considered on the Senate and the House floors.[14]

[9] 8 C.F.R. §216.1.

[10] The HEA is P.L. 89-329, as amended, 20 U.S.C. §1001 et seq. Section 484(a)(5) sets forth immigration-related eligibility requirements for federal student aid, and §484(g) requires the U.S. Department of Education to verify the immigration status of applicants for federal student aid.

[11] The term "services" is not defined in the bill. Services may include participation in Title IV programs that primarily provide support services to help students prepare for and complete postsecondary education. Many such programs also provide direct student support.

[12] IIRIRA is Division C of P.L. 104-208.

[13] IIRIRA §505 is codified at 8 U.S.C. §1623. The discussion surrounding this provision has focused mainly on the granting of "in-state" residency status for tuition purposes.

[14] For a discussion of bills introduced in the 109th and 110th Congresses, see CRS Report R43335, *Unauthorized Alien Students: Legislation in the 109th and 110th Congresses*. For a discussion of bills introduced in the 111th Congress, see Appendix of CRS Report RL33863, *Unauthorized Alien Students: Issues and "DREAM Act" Legislation*.

109th Congress

In the 109th Congress, the Senate passed a major immigration reform bill, the Comprehensive Immigration Reform Act of 2006 (S. 2611), with a DREAM Act subtitle. The Senate vote was 62 to 36. The House did not consider the bill.

The DREAM Act provisions in Senate-passed S. 2611 were similar to those in stand-alone S. 1545, as reported in the 108th Congress. Like the earlier bill, S. 2611 would have established a mechanism for an eligible unauthorized childhood arrival to become a conditional LPR and then, after meeting additional requirements, have the conditional basis of his or her status removed and become a full-fledged LPR. Applicants also would have had to clear inadmissibility and deportability criteria similar to those under S. 1545. These DREAM Act provisions were separate from other legalization provisions in S. 2611, and applicants under the DREAM Act provisions would not have been subject to the same requirements as applicants under the general legalization provisions.[15] This more generous treatment of unauthorized childhood arrivals reflected a widely held belief that they were different and less responsible for their unlawful status than other unauthorized immigrants.

Although the DREAM Act provisions in Senate-passed S. 2611 and S. 1545, as reported, were similar, there were some differences. For example, under S. 1545, as noted, the non-educational route through which a conditional LPR could become a full-fledged LPR required service in the Armed Forces. The comparable route under Senate-passed S. 2611 encompassed service in the broader uniformed services.[16]

110th Congress

In the 110th Congress, there was an unsuccessful vote in the Senate to invoke cloture on a bill to provide for comprehensive immigration reform (S. 1639) that included a DREAM Act subtitle among other legalization provisions. The vote was 46 to 53.

S. 1639 differed from earlier bills on unauthorized childhood arrivals in notable ways. For example, unlike S. 2611 , the immigration reform bill passed by the Senate in the 109th Congress, S. 1639's DREAM Act provisions were tied to other legalization provisions in the bill. Under S. 1639, the first step to LPR status for an unauthorized childhood arrival was the same as for any unauthorized immigrant: to obtain temporary legal status under a new "Z" nonimmigrant category.[17] Among the eligibility requirements for Z status were continuous presence in the United States since a specified date and clearance of inadmissibility and ineligibility criteria that were stricter than under S. 2611. Other requirements for obtaining Z status under S. 1639 included submission of biometric data for security and law enforcement background checks and satisfaction of any applicable federal tax liabilities.

[15] For example, applicants under the DREAM Act provisions would *not* have been subject to general legalization program requirements concerning employment, payment of fines, satisfaction of any applicable federal tax liabilities, and demonstration of English language proficiency and knowledge of civics.

[16] As defined in 10 U.S.C. §101(a)(5), the term "uniformed services" means the Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard), the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the Public Health Service.

[17] Nonimmigrants are admitted to the United States for a temporary period of time and specific purpose. Nonimmigrant visa categories are identified by letters and numbers, based on the sections of the INA that authorize them. See CRS Report R45040, *Immigration: Nonimmigrant (Temporary) Admissions to the United States*.

Z nonimmigrant status would have been granted for an initial period of four years and could have been extended in four-year increments. Applicants for extensions would have had to satisfy, among other criteria, escalating requirements concerning knowledge of the English language and U.S. civics, unless they qualified for an exception. These requirements were based on the English and civics requirements for naturalization.[18]

S. 1639 would have established different pathways to LPR status for Z nonimmigrants. A DREAM Act pathway to LPR status, which would have been quicker than the standard pathway provided in the bill, would have been available to Z nonimmigrants who met an additional set of requirements. These included being under age 30 on the date of enactment, being under age 16 at the time of initial U.S. entry, and having completed at least two years in either a bachelor's or higher degree program or the uniformed services. The "under age 30" requirement was new; earlier bills receiving action did not include maximum age provisions. S. 1639 would have deemed individuals obtaining LPR status under its DREAM Act pathway to meet the LPR residence requirement for naturalization eight years after the date of enactment.

S. 1639 also addressed eligibility for higher education benefits. As under the earlier bills discussed above, individuals obtaining LPR status under S. 1639's DREAM Act pathway would have been eligible for federal student loans, federal Work-Study programs, and services, but seemingly not grant aid. Unlike these other bills, S. 1639 would not have fully repealed the IIRIRA Section 505 restriction on state provision of post-secondary educational benefits, but would have rendered it ineffective for Z nonimmigrants.

Other legislation on unauthorized childhood arrivals considered in the 110th Congress included another major immigration reform bill (S. 1348). The Senate voted against invoking cloture on both S. 1348 and a substitute amendment to the bill. These votes occurred prior to the introduction of S. 1639.

After the unsuccessful cloture vote on S. 1639, the Senate considered a stand-alone DREAM Act bill (S. 2205). It did not invoke cloture on the motion to proceed to the bill, by a vote of 52 to 44. This vote on S. 2205 brought to the fore competing views among supporters of providing LPR status to unauthorized childhood arrivals about the relationship between that issue and other components of immigration reform. Some supporters pressed for passage of the stand-alone bill arguing that the situation of unauthorized childhood arrivals was urgent. Another view held, however, that enacting a pathway to LPR status for unauthorized childhood arrivals in a narrow bill would hurt the prospects of achieving broader reform (including more controversial proposals for the legalization of other unauthorized immigrants).[19]

111th Congress

In the 111th Congress, the House approved a DREAM Act amendment to an unrelated bill, the Removal Clarification Act of 2010 (H.R. 5281)[20] on a vote of 216 to 198. The Senate rejected a motion to invoke cloture on a motion to agree to the House-passed DREAM Act amendment to H.R. 5281, by a vote of 55 to 41.

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[18] These naturalization requirements are in INA §312(a) (8 U.S.C. §1423(a)).

[19] Jill Zuckman, "Divide on immigration issue dooms Dream Act in Senate," *Chicago Tribune*, October 25, 2007, p. C5; Julia Preston, "Bill for Immigrant Students Fails Test Vote in Senate," *New York Times*, October 25, 2007, p. A16.

[20] The text of the amendment and House debate on it is available in Representative Conyers et al., "Development, Relief, and Education for Alien Minors Act of 2010," remarks in the House, *Congressional Record*, daily edition, vol. 156 (December 8, 2010), pp. H8222- H8243. The amendment included the same text as H.R. 6497, as introduced in the 111th Congress.

This House-passed version of the DREAM Act would have established a three-stage process for individuals who were inadmissible or deportable from the United States to obtain LPR status. In stage 1, as in many previous bills, a successful applicant would have been granted conditional status. This proposal, however, would have granted conditional status in the form of *conditional nonimmigrant* status, which is not an existing status under immigration law. An individual would have applied in stage 2 to have his or her conditional nonimmigrant status extended, and in stage 3 to be granted LPR status. Under this DREAM Act amendment, an individual who became an LPR could naturalize after three years in LPR status.

The DREAM Act amendment to H.R. 5281 included eligibility requirements concerning continuous presence, age at entry, and educational attainment, as well as inadmissibility and ineligibility criteria. It also included some of the same types of requirements as S. 1639 in the 110th Congress—pertaining to maximum age, submission of biometric data, satisfaction of any applicable federal tax liability, and knowledge of English and U.S. civics—although the specific requirements were not necessarily the same, and did not necessarily apply at the same stage of the legalization process, in the two measures. Unlike earlier bills receiving action, the House-passed amendment would have established "surcharges" on applications for conditional status. While S. 1639 would have imposed penalty fees on applications for Z status, that bill would have made these fees inapplicable or refundable in the case of applicants who met its DREAM Act criteria.

Like the DREAM Act provisions in S. 1639 and earlier bills receiving action, the House-passed DREAM Act amendment would have made individuals who obtained conditional nonimmigrant or LPR status under its terms eligible for federal student aid in the form of federal student loans, federal Work-Study programs, and services, but seemingly not grant aid. Unlike earlier bills receiving action, the House-passed measure contained no IIRIRA Section 505 repeal language.

Establishment of DACA

On June 15, 2012, DHS issued a memorandum announcing the DACA initiative.[21] The memorandum stated that certain individuals who were brought to the United States as children and met other criteria would be considered for deferred action for two years, subject to renewal. DHS has described deferred action as "a use of prosecutorial discretion to defer removal action against an individual for a certain period of time."

In remarks delivered that same day, President Barack Obama called on Congress to pass DREAM Act legislation, citing in particular the House-passed bill in the 111th Congress. He indicated that "in the absence of any immigration action from Congress to fix our broken immigration system," his administration had tried "to focus our immigration enforcement resources in the right places." He portrayed the DACA initiative as an extension of those efforts, stating that "[e]ffective immediately, the Department of Homeland Security is taking steps to lift the shadow of deportation from these young people." President Obama made clear that DACA relief was not a permanent solution. Instead, he characterized it as "a temporary stopgap measure."[22]

[21] U.S. Department of Homeland Security, Memorandum to David V. Aguilar, Acting Commissioner, U.S. Customs and Border Protection, Alejandro Mayorkas, Director, U.S. Citizenship and Immigration Services, John Morton, Director, U.S. Immigration and Customs Enforcement, from Janet Napolitano, Secretary of Homeland Security, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children, June 15, 2012*, http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf.

[22] The White House, Office of the Press Secretary, "Remarks by the President on Immigration," June 15, 2012, https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration.

The eligibility criteria for an initial two-year grant of DACA were broadly similar to those in earlier DREAM Act bills. DHS's U.S. Citizenship and Immigration Services (USCIS), which administers DACA, published the eligibility criteria for an initial DACA grant and a renewal on its website. The criteria for an initial DACA grant were (1) under age 31 on June 15, 2012; (2) under age 16 at time of entry into the United States; (3) continuously resident in the United States since June 15, 2007; (4) physically present in United States on June 15, 2012, and at the time of requesting DACA; (5) not in lawful status on June 15, 2012; (6) in school, graduated from high school or obtained general education development certificate, or honorably discharged from the Armed Forces;[23] and (7) not convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and not otherwise a threat to national security or public safety. In addition, with specified exceptions, an individual had to be at least age 15 to request DACA.[24]

Individuals granted deferred action could receive employment authorization. According to USCIS, "Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate 'an economic necessity for employment'."[25] To request DACA from USCIS, an applicant had to submit Form I-821D, "Consideration of Deferred Action for Childhood Arrivals"; an application for employment authorization (Form I-765) and a related worksheet (Form I-765WS); and required fees.[26]

Currently, as discussed later in this report, individuals who have never been granted DACA cannot submit initial requests. Individuals who have been granted DACA in the past, however, continue to be able to submit requests. To be considered for a two-year renewal, a DACA recipient must satisfy the following criteria: (1) did not depart from the United States on or after August 15, 2012, without first obtaining permission to travel, (2) has continuously resided in the United States since submitting his or her latest approved DACA request, and (3) has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and is not a threat to national security or public safety.[27] To request a renewal of DACA, an individual must submit the same forms and fees as for an initial request. As of the date of this report, these fees total $495.[28]

Legislative Activity in the 113th Congresses

The next significant legislative developments related to unauthorized childhood arrivals occurred in the 113th Congress when the Senate approved a major immigration reform bill with DREAM

[23] This DACA eligibility requirement lists honorable discharge from, but not service in, the Armed Forces.

[24] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Consideration of DACA" (archived content).

[25] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Frequently Asked Questions, DHS DACA FAQs," response to question 1, March 8, 2018 (archived content), https://www.uscis.gov/archive/frequently-asked-questions#education.

[26] For background information on DACA, see archived CRS Report R44764, *Deferred Action for Childhood Arrivals (DACA): Frequently Asked Questions*.

[27] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Consideration of DACA" (archived content).

[28] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "I-821D, Consideration of Deferred Action for Childhood Arrivals," https://www.uscis.gov/i-821d.

Act provisions.[29] The bill, the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744), was passed on a 68-32 vote. The House did not consider S. 744.[30]

S. 744 proposed to establish a general legalization program for individuals in the United States who were not in nonimmigrant status or other specified lawful status and a special DREAM Act pathway to LPR status for certain aliens who had entered the country as children. Under S. 744, unauthorized childhood arrivals, like other unauthorized immigrants, would first have applied for a newly created status—registered provisional immigrant (RPI) status. The requirements for RPI status included continuous presence in the United States since a specified date, satisfaction of any applicable federal tax liability, and submission of biometric and biographic data for national security and law enforcement clearances. RPI status would have been granted for an initial period of six years and could have been extended in six-year increments. Applicants for RPI status would have been subject to specified inadmissibility and ineligibility criteria.

Under S. 744, DHS could have adopted streamlined RPI procedures for DACA recipients. It could have granted RPI status to a DACA recipient upon completion of renewed national security and law enforcement clearances unless the agency determined that the individual had engaged in conduct making him or her ineligible for RPI status.

S. 744 would have established a special DREAM Act pathway to LPR status for RPIs who had been in RPI status for at least five years, had initially entered the United States when they were under age 16, and, subject to a hardship exception, had completed either two years of higher education or four years of service in the uniformed services. Such individuals also would have had to submit biometric and biographic data for national security and law enforcement background checks and would have had to meet the English language and civics requirements for naturalization, unless exempted. S. 744 would have authorized DHS to adopt streamlined procedures for DACA recipients to obtain LPR status.

With respect to naturalization, an alien granted LPR status under the DREAM Act provisions in S. 744 would have been considered to be an LPR (and therefore accumulating time toward the residency requirement for naturalization) during the period in RPI status. In most cases, however, an alien could not have applied for naturalization while in RPI status.

S. 744 would have placed restrictions on federal student aid under Title IV of the Higher Education Act for RPIs who had entered the United States before age 16. This group would only have been eligible for federal student loans, federal Work-Study programs, and services. In addition, the bill would have repealed Section 505 of IIRIRA, which, as discussed, restricts the provision of postsecondary educational benefits for aliens who are not lawfully present.

DACA Since 2017

On September 5, 2017, Attorney General Jeff Sessions announced that DACA was being terminated. A related memorandum released by DHS the same day rescinded the 2012 memorandum that established the initiative.[31] As part of the rescission, DHS had planned to

[29] Legislative activity on unauthorized childhood arrivals in the 112th and 114th Congresses was limited. For a discussion of bills introduced in the 112th and 113th Congresses, see CRS Report RL33863, *Unauthorized Alien Students: Issues and "DREAM Act" Legislation*.

[30] For further discussion of S. 744, see ibid.

[31] U.S. Department of Homeland Security, Memorandum to James W. McCament, Acting Director, U.S. Citizenship and Immigration Services, Thomas D. Homan, Acting Director, U.S. Immigration and Customs Enforcement, Kevin K. McAleenan, Acting Commissioner, U.S. Customs and Border Protection, Joseph B. Maher, Acting General Counsel,

"execute a wind-down" of DACA, under which no new initial DACA requests would have been accepted after September 5, 2017, and no new renewal requests would have been accepted after October 5, 2017. This wind-down did not proceed as planned, however, because DACA recipients and others filed federal lawsuits challenging the legality of the rescission. Under rulings in these cases, to date, individuals who have been granted DACA in the past continue to be able to submit DACA requests. Individuals who have never been granted DACA cannot submit new initial requests.[32] The U.S. Supreme Court is scheduled to hear arguments on the DACA rescission on November 12, 2019.[33]

Individuals who have been granted DACA in the past and whose DACA grants have expired or been terminated are still able to apply for a renewal. As of August 1, 2019, USCIS has reinstated its past DACA "late renewal policy," under which an individual whose previous DACA grant expired more than one year ago or whose previous DACA grant was terminated must submit an initial DACA request rather than a renewal request.[34]

According to USCIS data on the DACA population, there were approximately 689,000 active DACA recipients as of September 4, 2017,[35] and approximately 669,080 active DACA recipients as of April 30, 2019.[36] Regarding the latter group, about 80% were born in Mexico, 53% were female, and the median age was 25.[37]

In notes accompanying the September 4, 2017, data tables, USCIS indicated that the total number of individuals who had ever been granted DACA as of that date was approximately 800,000. This number excluded individuals whose initial grants of DACA were later terminated. Of those 800,000 individuals, USCIS reported that about 40,000 had become LPRs and about 70,000 had either failed to apply to renew their DACA grants or had their renewal applications denied.[38] As

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Ambassador James D. Nealon, Assistant Secretary, International Engagement, Julie M. Kirchner, Citizenship and Immigration Services Ombudsman, from Elaine C. Duke, Acting Secretary of Homeland Security, *Rescission of the June 15, 2012 Memorandum Entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children"*, September 5, 2017.

[32] See CRS Legal Sidebar LSB10216, *DACA: Litigation Status Update*.

[33] National Immigration Law Center, *DACA Litigation Timeline*, July 24, 2019, https://www.nilc.org/issues/daca/daca-litigation-timeline/.

[34] See "Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction," July 17, 2019, update, https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction. According to USCIS, this late renewal policy has been in effect throughout the life of DACA, except for the period between January 10, 2018, and July 31, 2019; during this period, "individuals whose most recent period of DACA expired on or after September 5, 2016, could still file their request as a renewal request." USCIS e-mail to CRS, August 29, 2019. Thus, with the exception of filings during the specified early 2018 to mid-2019 period, DACA requests from previous DACA recipients filing initial requests are recorded as initial requests in USCIS data tables on DACA applications. DACA application data through the third quarter of FY2019 are available at https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_FY19_Q3_APR_FINAL.pdf

[35] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Approximate Active DACA Recipients," https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf (hereinafter cited as Approximate Active DACA Recipients as of September 4, 2017).

[36] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Approximate Active DACA Recipients," https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate_Active_DACA_Recipients_Demographics_-_Apr_30_2019.pdf

[37] Ibid.

[38] Approximate Active DACA Recipients as of September 4, 2017. The 40,000 and 70,000 figures (110,000 in total) account for the approximate difference between USCIS's 800,000 ever-granted-DACA estimate and its 689,000 active

of July 31, 2019, according to USCIS data, the total number of individuals who had ever been granted DACA was 822,063. This number excluded individuals whose initial grants of DACA were later terminated. Of those 822,063 individuals, 73,043 had become LPRs and 4,448 had become citizens.[39]

These data on DACA recipients can be compared with estimates of the DACA-eligible population. According to an analysis by the Migration Policy Institute (MPI),[40] an estimated 1,307,000 unauthorized individuals were immediately eligible for DACA in 2016 based on the eligibility requirements for an initial DACA grant that MPI was able to model.[41] In addition, an estimated 398,000 met the age, residence, and immigration status criteria but not the educational requirements.[42]

MPI updated its estimates of the DACA-eligible population as of 2018 based on the original DACA eligibility requirements and subject to the same model limitations as the 2016 estimates.[43] It estimated that, as of 2018, 1,302,000 individuals met the DACA eligibility requirements and an additional 356,000 met the age, residence, and immigration status criteria but not the educational requirements.[44]

Legislative Activity in the 115th and 116th Congresses

In the fall of 2017, following the DACA rescission announcement, President Donald Trump and several Members of Congress discussed a possible deal on unauthorized childhood arrivals. Initially, these talks focused on a package combining provisions to "enshrine the protections of DACA into law" with border security provisions.[45] Other immigration issues were subsequently introduced into the discussion, and in January 2018 the White House released its "Framework on Immigration Reform & Border Security."[46] This proposal called for legal status for DACA-eligible individuals as well as enhancements to border security and interior immigration

DACA recipient estimate for September 4, 2017.

[39] USCIS e-mail to CRS, August 29, 2019.

[40] Faye Hipsman, Bárbara Gómez-Aguiñaga, and Randy Capps, *DACA at Four: Participation in the Deferred Action Program and Impacts on Recipients*, Migration Policy Institute, August 2016. MPI uses American Community Survey (ACS) data in its analysis.

[41] MPI's model does not factor in the requirement for continuous U.S. residence (although its estimates are based on reported U.S. residence) or the requirement concerning criminal convictions and national security and public safety threats. As a result, MPI states that its "DACA-eligible populations might be slightly overestimated." Ibid. p. 14 (endnote 26).

[42] According to MPI, this group "could qualify for DACA if they enrolled in an adult education program that leads to a high school diploma, General Education Diploma (GED), or equivalent. (It is difficult to determine how many DACA participants have taken advantage of these alternate routes because the ACS data do not report enrollment in adult education programs.)." Ibid. pp. 2-3.

[43] See Migration Policy Institute, National and State Estimates of Immigrant Populations Eligible for the Deferred Action for Childhood Arrivals (DACA) Program, 2018, https://www.migrationpolicy.org/sites/default/files/datahub/State%20and%20County%20Estimates%20of%20DACA-Eligible%20Population_2018.xlsx. Like the 2016 estimates, the 2018 estimates do not factor in the requirement for continuous U.S. residence or the requirement concerning criminal convictions and national security and public safety threats.

[44] See Migration Policy Institute, National and State Estimates of Immigrant Populations Eligible for the Deferred Action for Childhood Arrivals (DACA) Program, 2018, https://www.migrationpolicy.org/sites/default/files/datahub/State%20and%20County%20Estimates%20of%20DACA-Eligible%20Population_2018.xlsx.

[45] See, for example, Russell Berman, "Trump Reverses His Stand on DACA," *Atlantic*, September 14, 2017.

[46] The White House, "White House Framework on Immigration Reform & Border Security," fact sheet, January 25, 2018, https://www.whitehouse.gov/briefings-statements/white-house-framework-immigration-reform-border-security/.

enforcement and changes to the permanent immigration system. In the 115th and 116th Congresses, the Senate and the House have considered measures containing provisions to grant legal status to DACA recipients and unauthorized childhood arrivals along with other immigration provisions.

115th Congress

In 2018, both the Senate and the House considered immigration legislation that contained language on unauthorized childhood arrivals. A greater number of proposals to provide immigration relief to this population received floor consideration in the 115th Congress than in any prior Congress. Neither chamber passed any of these measures.

Senate Amendments to H.R. 2579

In February 2018, the Senate considered three immigration proposals with language on unauthorized childhood arrivals as floor amendments to an unrelated bill, the Broader Options for Americans Act (H.R. 2579). The Senate rejected motions to invoke cloture on all three amendments.[47]

S.Amdt. 1955

The Senate considered provisions on unauthorized childhood arrivals as Subtitle A of S.Amdt. 1955, the Uniting and Securing America (USA) Act of 2018. Subtitle A was substantively identical to Title I of two bills with the same USA Act name, as introduced in the 115th Congress—S. 2367 and H.R. 4796.

S.Amdt. 1955 would have established a mechanism for certain childhood arrivals who were inadmissible to or deportable from the United States or were in temporary protected status (TPS)[48] to become LPRs—in most cases through a two-stage process. Applicants would have been considered for conditional LPR status in stage 1. To receive such status, an applicant would have had to meet requirements including continuous presence in the United States since December 31, 2013; initial U.S. entry before age 18; no inadmissibility under specified grounds in the INA and no other specified ineligibilities; and either college admission, acquisition of a high school diploma or comparable credential, or enrollment in secondary school or a comparable educational program. S.Amdt. 1955 would have directed DHS to grant conditional LPR status to a DACA recipient unless the individual had subsequently engaged in conduct that would make him or her ineligible for DACA. Applicants also would have had to submit biometric and biographic data for security and law enforcement background checks. Conditional LPR status would have been valid for eight years.

In stage 2, a conditional LPR would have had to meet a second set of requirements to have the conditional basis of his or her status removed and become a full-fledged LPR. Among these requirements were achievement of one of the following, subject to a hardship exception: (1) attainment of a college degree, completion of at least two years in a bachelor's or higher degree program, or completion of at least two years in a postsecondary vocational program, (2) service in the uniformed services for the obligatory period, or (3) employment for at least three years and at least 80% of the time the alien had valid employment authorization. The other stage 2

[47] For a discussion of these and other measures on unauthorized childhood arrivals introduced in the 115th Congress, see archived CRS Report R45139, *Unauthorized Childhood Arrivals: Legislative Activity in the 115th Congress*.

[48] TPS, like DACA, provides temporary protection from removal from the United States. See CRS Report RS20844, *Temporary Protected Status: Overview and Current Issues*.

requirements included submission of biometric and biographic data for security and law enforcement background checks, continued clearance of the inadmissibility and ineligibility criteria for conditional LPR status, and, unless subject to an exception due to a disability, satisfaction of the English language and U.S. civics requirements for naturalization.

Under S.Amdt. 1955, a conditional LPR could have applied to have the condition on his or her status removed at any time after meeting the stage 2 requirements. The time spent in conditional status would have counted as time in LPR status for purposes of naturalization, but the individual could not have applied for naturalization while in conditional status. In addition, the bill would have provided that an applicant meeting all the stage 1 and stage 2 requirements at the time of submitting his or her initial application would have been granted full-fledged LPR status directly (without first being granted conditional status). Earlier bills receiving floor action did not include such a provision.

Regarding postsecondary education, S.Amdt. 1955 would have repealed Section 505 of IIRIRA. The measure did not include any language concerning federal student aid.

On February 15, 2018, the Senate voted (52 to 47) not to invoke cloture on S.Amdt. 1955.

S.Amdt. 1958

S.Amdt. 1958, the Immigration Security and Opportunity Act, would have established a two-stage pathway to LPR status for certain childhood arrivals who were inadmissible to or deportable from the United States.[49] It incorporated some eligibility requirements for applicants at both stages that were not included in S.Amdt. 1955. Under S.Amdt. 1958, to obtain conditional LPR status in stage 1 an individual would have had to either be a DACA recipient or meet a set of requirements. For a DACA recipient to qualify, he or she could not have engaged in any conduct since being granted DACA that would have made the individual ineligible for DACA protection.

Requirements applicable to a non-DACA recipient included continuous presence in the United States since June 15, 2012; initial U.S. entry before age 18; no inadmissibility under specified grounds in the INA and no other specified ineligibilities; and either satisfaction of educational requirements like those under S.Amdt. 1955, or enlistment or service in the Armed Forces. In addition, a non-DACA recipient would have had to meet a maximum age requirement—having a birthdate after June 15, 1974—and to have satisfied any applicable federal tax liability.

All stage 1 applicants also would have had to submit biometric and biographic data for security and law enforcement background checks. Conditional LPR status under S.Amdt. 1958 would have been valid for seven years.

To have the conditional basis of his or her status removed and become a full-fledged LPR, a conditional LPR would have had to meet a second set of requirements. These stage 2 requirements included satisfaction of one of the following: (1) acquisition of a college degree or completion of at least two years in a program for a bachelor's or higher degree, (2) service in the uniformed services for at least two years, or (3) employment for at least three years and at least 75% of the time the alien had valid employment authorization. Other requirements included submission of biometric and biographic data for security and law enforcement background checks, continued clearance of the inadmissibility and ineligibility criteria for conditional LPR status, satisfaction of the English language and civics requirements for naturalization, and satisfaction of any applicable federal tax liability.

[49] This amendment was considered on the Senate floor, as modified.

Under S.Amdt. 1958, the time spent in conditional status would have counted as time in LPR status for purposes of naturalization. In general, however, beneficiaries could not have been naturalized until 12 years after they had received conditional status. This period could have been reduced by up to two years for DACA recipients.

S.Amdt. 1958 also would have limited the ability of the parents of its beneficiaries to obtain LPR status in the United States. Earlier measures receiving legislative action did not include such restrictions. S.Amdt. 1958 would have prevented a parent from obtaining LPR status based on an immigrant petition filed by a child who had received conditional permanent resident status under the bill if the parent had assisted in the child's unlawful entry into the United States.[50] The amendment did not include any language on federal student aid or Section 505 of IIRIRA.

On February 15, 2018, the Senate voted (54 to 45) not to invoke cloture on S.Amdt. 1958.

S.Amdt. 1959

Provisions on unauthorized childhood arrivals comprised Title III of S.Amdt. 1959, the SECURE and SUCCEED Act. Title III, named the SUCCEED Act, was broadly similar to a Senate bill of the same name (S. 1852), as introduced in the 115th Congress, despite differences between the two measures.

S.Amdt. 1959 would have established a three-stage process for unauthorized childhood arrivals to obtain LPR status. Applicants who met an initial set of requirements would have been granted *conditional temporary* resident status (rather than conditional LPR status, as under the other two Senate amendments). These requirements, which incorporated some of the initial criteria for DACA, included continuous presence in the United States since June 15, 2012; initial U.S. entry before age 16; a birthdate after June 15, 1981; not being in lawful status on June 15, 2012; no inadmissibility or deportability under specified grounds in the INA and no other specified ineligibilities; and educational or military requirements based on the applicant's age on the date of enactment. Those under age 18 would have had to be in school. Those age 18 and older would have had to have earned a high school diploma or comparable credential, been admitted to college, or served or enlisted in the Armed Forces.

As under one or both of the other amendments discussed, all stage 1 applicants would also have needed to submit biometric and biographic data for security and law enforcement background checks and to satisfy any applicable federal tax liability. In addition, S.Amdt. 1959 included some requirements to obtain conditional status that were not found in the other amendments. Among them, an applicant age 18 or older would have had to acknowledge being notified that if he or she violated a term of conditional temporary resident status, he or she would be ineligible for any immigration relief or benefits, with limited exceptions. Conditional temporary resident status would have been valid for an initial period of seven years or until the alien turned age 18, if longer.

Under S.Amdt. 1959, an alien's initial period of conditional temporary residence would have been extended for five years if the alien met additional requirements. These included satisfying one of the following: (1) college graduation or college attendance for at least eight semesters, (2) service in the Armed Forces for at least three years, or (3) a combination of college attendance, military service, and/or employment, as specified, for at least four years.

After seven years in conditional temporary resident status, an alien could have applied for LPR status subject to another set of requirements. These requirements included continued compliance

[50] For a discussion of family-based immigration, see CRS Report R43145, *U.S. Family-Based Immigration Policy*.

with the requirements for conditional temporary resident status, submission of biometric and biographic data for security and law enforcement background checks, satisfaction of the English language and civics requirements for naturalization (unless exempt due to a disability), and payment of any applicable federal tax liability.

Like S.Amdt. 1958, S.Amdt. 1959 would have placed limitations on the ability of its beneficiaries to naturalize and the ability of the family members of its beneficiaries to obtain lawful immigration status under existing law. The provisions in S.Amdt. 1959, however, were more restrictive than those in S.Amdt. 1958. An individual would have had to wait at least seven years after being granted LPR status to apply for naturalization. S.Amdt. 1959 would also have provided that a parent or other family member of an alien granted conditional temporary resident status or LPR status could not have gained any status under the immigration laws based on a parental or other family relationship. The amendment did not include any language on federal student aid or Section 505 of IIRIRA.

On February 15, 2018, the Senate voted (39 to 60) not to invoke cloture on S.Amdt. 1959.

House Bills

In June 2018, the House considered two major immigration reform bills with provisions on unauthorized childhood arrivals. Notably, unlike the Senate amendments discussed above and the bills considered in prior Congresses, these bills would not have established new mechanisms for unauthorized childhood arrivals to apply for LPR status on their own behalf. One bill (H.R. 4760), which would have applied only to DACA recipients, would have provided eligible individuals with a renewable temporary status. The other (H.R. 6136) would have enabled eligible individuals to adjust to LPR status in the United States if they were otherwise eligible for immigrant visas. Neither bill passed.

H.R. 4760

The Securing America's Future Act of 2018 (H.R. 4760) would have established a process for certain unauthorized childhood arrivals to obtain a new temporary immigration status—contingent nonimmigrant (CNI) status. To be eligible for CNI status, individuals would have had to have on the bill's date of enactment valid work authorization that was issued pursuant to the DACA initiative (thus, they would have needed to be current DACA recipients).

Among the other eligibility criteria for CNI status, individuals would have had to be enrolled in and attending an educational institution full-time, or to have earned a high school diploma, General Educational Development certificate, or high school equivalency certificate. Applicants for CNI status also would have had to submit biometric and biographic data for security and law enforcement checks and clear specified INA inadmissibility and deportability criteria and other specified ineligibilities. The latter ineligibilities were stricter than those under the Senate amendments considered in the 115th Congress and earlier bills on unauthorized childhood arrivals. Applicants also would have had to pay a border security fee.

CNI status would have been granted for a period of three years and could have been extended in three-year increments. Contingent nonimmigrants would have been eligible for employment authorization and could have traveled outside the United States and been permitted to return. H.R. 4760 would not have provided a pathway to LPR status.

On June 21, 2018, the House voted (193 to 231) not to pass H.R. 4760.

H.R. 6136

Like H.R. 4760, the related Border Security and Immigration Reform Act of 2018 (H.R. 6136) would have established a process for certain unauthorized childhood arrivals to obtain CNI status. This bill included many of the same eligibility and ineligibility criteria for CNI status as H.R. 4760, but it would not have been as restrictive. For example, it would not have been limited to individuals who had DACA. Among other, specific differences between the criteria in the two bills, H.R. 4760 would have required applicants for CNI status to be under age 31 on June 15, 2012, which is a requirement for DACA, and also to be under age 31 at the time of filing the CNI application. H.R. 6136 would have required applicants to meet the former age requirement but not the latter.

Under H.R. 6136, CNI status would have been granted for a period of six years and could have been extended in six-year increments. Contingent nonimmigrants would have been eligible for employment authorization and could have traveled outside the United States and been permitted to return.

In a key difference from H.R. 4760, H.R. 6136 would have created a means for CNIs who met certain criteria to become LPRs through the INA adjustment of status provisions. As mentioned in the earlier discussion of the original Dream Act proposals, foreign nationals in the United States who have immigrant visas immediately available to them (based, for example, on an immigrant visa petition filed by a qualified family member) and meet other criteria can become LPRs without having to leave the country. However, in order to adjust to LPR status through these provisions, individuals (except for certain battered immigrants) must have been "inspected and admitted or paroled into the United States." They also must be admissible to the United States for permanent residence under the grounds enumerated in the INA. In addition, with limited exceptions, these adjustment of status provisions are inapplicable to an individual who has engaged in unauthorized employment or "who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States."[51]

H.R. 6136 would have provided that in applying the INA adjustment provisions to a CNI who has been in that status for five years, the CNI would have been considered to be inspected and admitted into the United States. It also would have provided that in making determinations about the CNI's admissibility to the United States, specified grounds of inadmissibility, including grounds related to unlawful presence and lack of proper documentation, would not have applied. The bill, however, did not explicitly address other disqualifications under the adjustment of status provisions, such as for unauthorized employment. The limited permanent immigration relief offered by H.R. 6136 can be seen as occupying a middle ground between H.R. 4760's renewable temporary status and the special pathways to permanent resident status proposed under the Senate amendments.

On June 27, 2018, the House voted (121 to 301) not to pass H.R. 6136.

116th Congress

As of the date of this report, legislative activity in the 116th Congress on unauthorized childhood arrivals has occurred in the House in connection with the American Dream and Promise Act of 2019 (H.R. 6). This bill contains a Title I (Dream Act) on unauthorized childhood arrivals and a

[51] INA §245 (8 U.S.C. §1255).

Title II (American Promise Act) on nationals of certain countries designated for TPS or deferred enforced departure (DED).[52] Unlike other bills on unauthorized childhood arrivals that have seen floor action in recent Congresses H.R. 6 does not address an array of immigration issues. The House passed H.R. 6 on June 4, 2019, by a vote of 237 to 187.[53]

The Dream Act title of H.R. 6 would establish a mechanism for certain childhood arrivals who are inadmissible or deportable from the United States or who have TPS or are covered by a grant of DED[54] to become LPRs—in most cases through a two-stage process.

To obtain conditional LPR status in stage 1, an individual would need to meet a set of requirements, including continuous presence in the United States for at least four years since the date of enactment, initial U.S. entry before age 18, no inadmissibility under specified grounds in the INA and no other specified ineligibilities, and satisfaction of educational requirements. These educational requirements could be satisfied in various ways, including, as in some earlier bills, by attainment of a high school diploma or comparable credential or by enrollment in secondary school or a program to obtain a high school diploma or comparable credential. They also could be satisfied by obtaining a credential from a career and technical education school that provides education at the secondary level. DACA recipients who meet the requirements for a DACA renewal, as in effect in January 2017, would be subject to streamlined application procedures to be established by DHS. All applicants would need to submit biometric and biographic data for security and law enforcement background checks. Conditional LPR status would be valid for 10 years.

In stage 2, a conditional LPR would have to meet a second set of requirements to have the conditional basis of his or her status removed and become a full-fledged LPR. Among these requirements are achievement of one of the following, subject to a hardship exception: (1) attainment of a college degree, completion of at least two years in a program for a bachelor's or higher degree, or acquisition of a recognized postsecondary credential from an area career and technical education school; (2) service in the uniformed services for at least two years; or (3) earned income for at least three years and at least 75% of the time the alien had valid employment authorization. The other stage 2 requirements include submission of biometric and biographic data for security and law enforcement background checks, continued clearance of the inadmissibility and ineligibility criteria for conditional LPR status, and satisfaction of the English language and U.S. civics requirements for naturalization, subject to an exception due to disability.

Under H.R. 6, a conditional LPR could apply to have the condition on his or her status removed at any time after meeting the stage 2 requirements. The time spent in conditional status would count as time in LPR status for purposes of naturalization, but the individual could not apply for naturalization while in conditional status. In addition, like S.Amdt. 1955 in the 115th Congress, the bill would provide that an applicant meeting all the stage 1 and stage 2 requirements at the time of submitting his or her initial application would be granted full-fledged LPR status directly (without first being granted conditional status).

[52] For information on TPS and DED, see CRS Report RS20844, *Temporary Protected Status: Overview and Current Issues*.

[53] H.R. 6 was referred to the House Judiciary Committee. Instead of marking up H.R. 6, the committee marked up separate bills covering Title I (H.R. 2820) and Title II (H.R. 2821) of H.R. 6. The committee-reported versions of H.R. 2820 and H.R. 2821 were then recombined into an amended version of H.R. 6, which was considered on the House floor on June 4, 2019.

[54] The American Promise Act title establishes a separate pathway to LPR status for individuals who have TPS or are under a grant of DED. The Dream Act title would only offer relief to individuals covered by TPS/DED who arrived in the United States as children and meet the other specified criteria in this title.

Regarding postsecondary education, H.R. 6 would not place any restrictions on its beneficiaries' eligibility for federal student aid and would not repeal Section 505 of IIRIRA.

Conclusion

The Trump Administration's efforts to end the DACA program have focused renewed attention on the issue of unauthorized childhood arrivals. Passage of H.R. 6 in the House in the 116th Congress can be seen as a result of this renewed attention. This bill is the latest of several measures to grant LPR status to unauthorized childhood arrivals, and the first in more than five years, to have passed one chamber. The question remains, however, if this bill or another measure to grant legal status to DACA recipients or unauthorized childhood arrivals will be enacted into law.

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