



# COMPARISON OF CRIMINAL AND INADMISSIBILITY GROUNDS FOR AMERICAN DREAM AND PROMISE ACT OF 2019, DACA, AND TPS

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In June of 2019, the U.S. House of Representatives passed the American Dream and Promise Act of 2019, H.R. 6, in the 116<sup>th</sup> Congress, which would provide relief to immigrant youth (including Deferred Action for Childhood Arrivals (DACA) recipients), Temporary Protected Status (TPS) holders, and Deferred Enforced Departure (DED) holders. Estimates project the bill could provide relief to upwards of 2.6 million individuals, allowing them to obtain lawful permanent resident status (LPR) and, after five years, naturalize and become citizens under existing law.<sup>1</sup> This resource provides an in-depth, technical overview of the criminal background and inadmissibility ground requirements of H.R. 6 by comparing the eligibility criteria for DACA with H.R. 6’s Dream Act title; and the eligibility criteria for TPS with H.R. 6’s TPS and DED Title.<sup>1</sup> DED generally follows the criteria for TPS and thus is included under the TPS comparison.<sup>2</sup> The National Immigration Law Center created resources generally comparing the provisions of [various Dream Act bills](#) and [TPS-related bills](#), which serve as complements to this chart.

	Deferred Action for Childhood Arrivals <sup>3</sup>	American Dream and Promise Act of 2019 <sup>4</sup>		Temporary Protected Status Statute <sup>5</sup> INA 244
		H.R. 6		
		Title I – Dream Act of 2019	Title II – American Promise Act of 2019	
<b>Minor Traffic Convictions</b>	<p>Not a bar for relief under the misdemeanor bar.</p> <p>Potential bar for relief under the felony bar.</p> <p><b>Commentary.</b> A minor traffic offense is not considered a misdemeanor for purposes of the bar to DACA based on three misdemeanor convictions.</p> <p>Regarding the bar to DACA based on one felony conviction, because there is no explicit exclusion for minor traffic offenses, individuals may be barred if they are convicted of a minor traffic offense, such as driving on an expired</p>	<p>Not a bar for relief.</p> <p><b>Commentary.</b> The bill excludes “any minor traffic offense” from both the misdemeanor and felony bar.</p>	<p>Potential bar for relief under misdemeanor and felony bars.</p> <p><b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as of September 28, 2016. Thus, if an individual was disqualified for a misdemeanor or felony traffic offense as of that date (and therefore ineligible for TPS or DED), they would be ineligible for relief under this bill.</p>	<p>Potential bar for relief under misdemeanor and felony bars.</p> <p><b>Commentary.</b> Under the statute, individuals convicted of “any felony or 2 or more misdemeanors” are ineligible for relief. There are no exceptions for traffic-based misdemeanors.</p>

This chart was drafted in collaboration with [United We Dream](#) by the Immigrant Legal Resource Center (ILRC) and represents an update of the ILRC’s August 2017 resource *Criminal and Inadmissibility Bars for 2017 Dream Act and Related Legislation*, which compared various legislation that would provide relief to immigrant youth. For questions regarding this document, please contact Sameera Hafiz at [shafiz@ilrc.org](mailto:shafiz@ilrc.org) or Sanaa Abrar at [sanaa@unitedwedream.org](mailto:sanaa@unitedwedream.org). For the latest version of this chart, visit <http://www.ilrc.org>.

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	license or without a license, if the state categorizes the offense as a felony, (such as Florida, Georgia, Illinois, Indiana, Kentucky and Missouri). <sup>6</sup>			
<b>State Immigration Convictions</b>	Not a bar for relief. <b>Commentary.</b> A state or local offense that has immigration status as an element is not considered a significant misdemeanor.	Not a bar for relief. <b>Commentary.</b> The bill explicitly excludes offenses under “State law for which an essential element is the alien’s immigration status.”	Not excluded. <b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as of September 28, 2016. Thus, if an individual was disqualified for a misdemeanor or felony state-based offense on that date (and therefore ineligible for TPS or DED), they would be ineligible for relief under this bill.	Not excluded. <b>Commentary.</b> Under the statute, to be ineligible for relief, individuals must be convicted of “any felony or 2 or more misdemeanors.” There are no exceptions for state-based immigration convictions.
<b>Juvenile Adjudications</b>  Also known as “Delinquency Adjudications.” <sup>7</sup>  Even if there is no disqualification based on juvenile adjudications, certain grounds of inadmissibility may be triggered by conduct even when there is no conviction, e.g. INA § 212(a)(2)(C) (reason to believe an individual is a drug trafficker).	Not a bar for relief. <b>Commentary.</b> While a delinquency adjudication will not automatically disqualify an individual, they may still be denied on discretion upon review of the underlying conduct that gave rise to the adjudication.  (The conduct-based inadmissibility grounds are not a bar to DACA, because DACA does not require the person to be admissible.)	An applicant may be provisionally denied, based on the Secretary’s discretion, based on public safety concerns. A juvenile adjudication can form the basis of a public safety determination if it resulted in placement in a secure facility.  <b>Commentary.</b> Juvenile adjudications do not trigger the misdemeanor bar, felony bar, or grounds of inadmissibility that require a conviction, but might trigger conduct-based grounds of inadmissibility and/or the public safety determination, even though, under BIA case law, a juvenile adjudication is not a conviction for immigration purposes. <sup>8</sup>	Not a bar for relief. <b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as of September 28, 2016. Juvenile adjudications are not convictions that disqualify individuals from TPS or DED under the statute. Therefore, unless they triggered conduct-based grounds of inadmissibility, juvenile adjudications will not disqualify an individual from relief.  Under BIA case law, a juvenile adjudication is not a conviction for immigration purposes. <sup>9</sup>	Not a bar for relief. <b>Commentary.</b> Juvenile adjudications are not convictions that trigger the misdemeanor bar, felony bar, or grounds of inadmissibility. Therefore, unless they trigger conduct-based grounds of inadmissibility, juvenile adjudications will not disqualify an individual from relief.  While the statute does not discuss juvenile adjudications, under BIA case law, a juvenile adjudication is not a conviction for immigration purposes. <sup>10</sup>
<b>Misdemeanor Convictions</b>	Conviction of three or more misdemeanors, where conduct did not	Conviction of “3 or more offenses under Federal or State law” and where the	Conviction of two or more misdemeanors disqualify an	Conviction of two or more misdemeanors disqualifies an

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	<p>occur on the same date and did not arise out of the same scheme, disqualify an individual (but see below on Expunged Convictions).</p> <p><b>Text.</b> “If you have been convicted of . . . three or more other misdemeanor offenses not occurring on the same date and not arising out of the same act, omission, or scheme of misconduct, you will not be considered for” DACA.</p> <p>For purposes of DACA, a misdemeanor is defined as an offense that has a potential sentence that is greater than five days but is not greater than one year.</p>	<p>offenses were on different dates, disqualify an individual.</p> <p>The misdemeanor bar excludes: (a) simple possession of cannabis or cannabis-related paraphernalia; (b) any offense involving cannabis or cannabis-related paraphernalia in states where those offenses are no longer prosecutable; and (c) civil disobedience offenses not involving violence.</p> <p>There is also a waiver available for one misdemeanor if the individual has not been convicted of any offense in the five years before applying; and two misdemeanors if the individual has not been convicted of any offense in the ten years before applying.</p> <p><b>Commentary.</b> Misdemeanor is defined an offense “that is punishable by a term of imprisonment of more than 5 days but not more than 1 year.”</p>	<p>individual.</p> <p><b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as of September 28, 2016. Thus, if an individual was convicted of two or more misdemeanors as of that date (and therefore ineligible for TPS or DED), they would be ineligible for relief under this bill.</p>	<p>individual.</p> <p><b>Commentary:</b> Misdemeanor is not specifically defined.</p>
<p><b>Significant Misdemeanor Convictions;</b></p> <p><b>Crime of Domestic Violence</b></p> <p>Significant misdemeanors are a non-statutory class of offenses originally created by the Obama Administration that are misdemeanors but deemed serious enough to warrant exclusion in</p>	<p>One or more significant misdemeanors disqualifies an individual.</p> <p><b>Commentary.</b> A significant misdemeanor is defined as one or more misdemeanors involving: (a) domestic violence; (b) sexual abuse or exploitation; (c) burglary; (d) unlawful possession or use of a firearm; (e) drug distribution or trafficking; (f) driving under the influence where there was operation of a motor vehicle and finding of impairment or a</p>	<p>Significant misdemeanors are not a bar, but bill includes a “crime of domestic violence” bar.</p> <p><b>Commentary.</b> The bill does not have a significant misdemeanor bar but does have a bar for any offense that is a “crime of domestic violence.”</p> <p>There are exceptions for individuals who are survivors of domestic violence or related crimes; individuals who have been battered or subject to extreme cruelty; and survivors of U nonimmigrant qualifying</p>	<p>See above on misdemeanor convictions.</p>	<p>See above on misdemeanor convictions.</p>

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		certain types of relief.	<p>minimum .08 BAC; or (g) an offense for which the individual was sentenced 90 days or more in custody, excluding suspended sentences.</p> <p><b>Commentary.</b> USCIS defines these terms through guidance and FAQs. For more information, see <a href="https://www.ilrc.org/crimes-related-bars-dapa-daca">https://www.ilrc.org/crimes-related-bars-dapa-daca</a>. The significant misdemeanors are not defined according to specific elements. For example, a range of offenses have been held a domestic violence offense.</p>	
<b>Felony Convictions</b>	<p>Conviction of one or more felonies disqualifies an individual.</p> <p><b>Commentary.</b> For DACA purposes, a felony is defined as a federal, state, or local offense that has a potential sentence that is greater than one year.</p>	<p>Conviction of one or more felonies disqualifies an individual.</p> <p><b>Commentary.</b> Felony is defined an offense “that is punishable by a term of imprisonment more than 1 year.”</p>	<p>Conviction of one or more felonies disqualifies an individual.</p> <p><b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as of September 28, 2016. Thus, if an individual was disqualified for a felony offense on that date, and therefore ineligible for TPS or DED, they would</p>	<p>Conviction of one or more felonies disqualifies an individual.</p> <p><b>Commentary.</b> The definition of felony does not include an offense that has a potential sentence of more than a year if it is defined by the state as a misdemeanor, and if the sentence actually imposed is one year or less.<sup>12</sup></p>

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			be ineligible for relief under this bill. Felony is not specifically defined.	
<p><b>Expunged Convictions</b></p> <p>Generally, under immigration law, post-conviction relief based on rehabilitative factors such as successfully completing probation (colloquially known as “expungement” or similar) does not erase a conviction for the purposes of immigration law.</p>	<p>Reviewed on case-by-case basis.</p> <p><b>Commentary.</b> Misdemeanor, significant misdemeanor, and felony convictions that have been “expunged” (meaning, eliminated pursuant to some form of rehabilitative relief) do not automatically disqualify an individual, but instead are reviewed one case-by-case basis.</p>	<p>Expunged convictions (including expunged and sealed juvenile adjudications) are not a bar for relief under the misdemeanor and felony bars; grounds of inadmissibility; or the discretionary denial provisions.</p> <p><b>Text.</b> “[T]he term ‘conviction’ does not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.”</p> <p><b>Commentary.</b> Although the definition lists only expungements and set-asides, by stating that it includes “rehabilitative disposition” or “the equivalent,” it appears to indicate that all forms are included.</p>	<p>Expunged convictions are not “convictions” for this purpose. (But see Commentary.)</p> <p><b>Text.</b> “[T]he term ‘conviction’ does not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.”</p> <p><b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as of September 28, 2016. The bill also excludes expunged convictions. These two requirements may raise questions. Are individuals who received an expungement after September 28, 2016 eligible, since they were not eligible as of September 28, 2016? Are individuals who received an expungement on or before September 28, 2016 eligible, given that as of that date the expungement had no immigration effect?</p>	<p>An expungement does not prevent a conviction from serving as a bar.</p> <p><b>Commentary.</b> Under existing case law, expunged convictions are still convictions for immigration purposes. Conviction of an inadmissible offense, two misdemeanors, or a felony would remain a bar even after expungement.</p>
<p><b>Suspended Sentences</b></p> <p>Under immigration law generally, a suspended sentence is still considered a term of imprisonment or</p>	<p>The significant misdemeanor bar based on a sentence of more 90 days does not include suspended sentences.</p>	<p>No exclusion for suspended sentences. For the misdemeanor bar to apply, an individual must be imprisoned for an aggregate of 90 days or more.</p> <p><b>Commentary.</b> Under immigration law</p>	<p>No exclusion for suspended sentences.</p> <p><b>Commentary.</b> Under the bill, an individual must have “had or was otherwise eligible for” TPS or DED as</p>	<p>No exclusion for suspended sentences.</p> <p><b>Commentary.</b> Under immigration law generally, a sentence that is imposed but suspended will be considered for</p>

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sentence for the purposes of immigration law.		generally, a sentence that is imposed but suspended will be considered for purposes of inadmissibility grounds.	of September 28, 2016.	purposes of inadmissibility grounds. There is no requirement relating to suspended sentences for the bar based on conviction of one felony or two misdemeanors.
<b>Public Safety</b>	<p>Ineligible if deemed a threat to public safety.</p> <p><b>Commentary/Text.</b> Indicators that an individual poses such a threat include, but are not limited to, gang membership, participation in criminal activities, or participation in activities that threaten the United States.</p>	<p>The Secretary has non-delegable discretion to deny an application, regardless if an applicant meets all other background requirements, if there is “clear and convincing evidence” that an applicant triggers certain public safety or gang participation grounds.</p> <p>Under the discretionary denial for public safety, the applicant may be denied if they (not counting simple possession of cannabis or cannabis-related paraphernalia, a cannabis related offense which is no longer prosecutable, an immigration status related State offense, or a minor traffic offense) have either: (a) one misdemeanor conviction punishable by a term of more than 30 days imprisonment; (b) or juvenile adjudication that resulted in placement in a secure facility; <b>AND</b> pose a “significant and continuing threat to public safety related to” that underlying conviction or adjudication. As part of this determination, the Secretary shall consider recency, sentence imposed, nature of offense, bodily injury, and other factors.</p> <p>Under the discretionary denial for gang participation, the applicant be may be denied if they, within 5 years of</p>	There is no language addressing public safety however criminal conduct or convictions that trigger bars must be waived or fall within an exception.	There is no language addressing public safety however criminal conduct or convictions that trigger bars must be waived or fall within an exception.

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			<p>application, “knowingly, willfully, and voluntarily” participated in offenses committed by a gang (defined by 18 U.S.C. § 521) with “the intent to promote or further the commission of such offenses.”</p> <p>Denials for gang participation cannot be solely based on allegations obtained from gang databases, but do not require convictions.</p> <p>Prior to issuing a discretionary denial, the Secretary will provide a notice of intent to deny and allow applicant 90 days to respond.</p>	
<b>National Security</b>	<p>Ineligible if deemed a threat to national security.</p> <p><b>Commentary/Text.</b> Indicators that an individual poses such a threat include, but are not limited to, gang membership, participation in criminal activities, or participation in activities that threaten the United States.</p>	Ineligible if inadmissible under INA 212(a)(3) ( <b>security-related grounds</b> ).	Ineligible if inadmissible under INA 212(a)(3) ( <b>security-related grounds</b> ).	Ineligible if inadmissible under INA 212(a)(3) ( <b>security-related grounds</b> ).
<b>GROUND OF INADMISSIBILITY</b>				
<b>Waivers for Criminal History or Grounds of Inadmissibility</b>	<p>Waiver for criminal history available for convictions where there are “exceptional circumstances.”</p>	<p>Waiver available for certain grounds of inadmissibility, and for conviction of a crime of domestic violence, for humanitarian purposes, family unity, or otherwise in the public interest.</p> <p><b>Commentary.</b> Existing exceptions and waivers for grounds of inadmissibility (e.g. petty offense and youthful offense exceptions; and 212(h) waiver) continue to</p>	<p>Waiver available for certain grounds of inadmissibility, for humanitarian purposes, family unity, or otherwise in the public interest.</p> <p><b>Commentary.</b> Existing exceptions and waivers for grounds of inadmissibility (e.g. petty offense and youthful offense exceptions; and 212(h) waiver) continue to apply to grounds of</p>	<p>Waiver available for certain grounds of inadmissibility, for humanitarian purposes, family unity, or otherwise in the public interest.</p> <p><b>Commentary.</b> Existing exceptions and waivers for grounds of inadmissibility (e.g. petty offense and youthful offense exceptions; and 212(h) waiver) continue to apply to grounds of</p>

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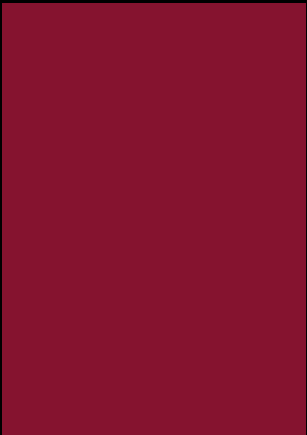
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		apply to grounds of inadmissibility but <i>do not</i> affect the misdemeanor or felony bars.	inadmissibility but <i>do not</i> affect the misdemeanor or felony bars.	inadmissibility but <i>do not</i> affect the misdemeanor or felony bars.
<b>INA 212(a)(1) (Health-related reasons)</b>	This ground does not apply.	This ground applies (waiver available).	This ground applies.	This ground applies (waiver available).
<b>INA 212(a)(2) (Criminal and Related Grounds)</b> Including crimes involving moral turpitude, controlled substance violations, two or more offenses with aggregate sentences of more than five years.	This ground does not apply but see above on Public Safety above.	This ground applies and does not require convictions. Waiver available for humanitarian purposes, family unity or otherwise in the public interest in certain cases.	This ground applies and does not require convictions. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies and does not require convictions.  Waiver available for simple possession of 30 grams or less of marijuana.
<b>INA 212(a)(3) (Security and Related Grounds)</b>	This ground does not apply but see above on National Security.	This ground applies and there is no waiver.	This ground applies and there is no waiver.	This ground applies and there is no waiver.
<b>INA 212(a)(4) (Public Charge)</b>	This ground does not apply.	This ground does not apply.	This ground does not apply.	This ground applies (waiver available).
<b>INA 212(a)(6)(C) (Misrepresentation and False Claims)</b>	This ground does not apply.	This ground does not apply.	This ground does not apply.	This ground applies (waiver available)
<b>INA 212(a)(6)(E) (Smuggling)</b>	This ground does not apply.	This ground applies. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies (waiver available)
<b>INA 212(a)(6)(G) (Student Visa Abusers)</b>	This ground does not apply.	This ground applies. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies (waiver available)
<b>INA 212(a)(8) (Ineligible for Citizenship)</b>	This ground does not apply.	This ground applies and there is no waiver.	This ground applies and there is no waiver.	This ground applies (waiver available)



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<b>INA 212(a)(9)(A) (Certain Aliens Previously Removed)</b>	This ground does not apply.	This ground does not apply.	This ground does not apply.	This ground applies (waiver available)
<b>INA 212(a)(9)(C) (Permanent bar)</b>	This ground does not apply.	This ground does not apply.	This ground applies and there is no waiver.	This ground applies (waiver available)
<b>INA 212(a)(10)(A) (Practicing Polygamists)</b>	This ground does not apply.	This ground applies and there is no waiver.	This ground applies and there is no waiver.	This ground applies (waiver available)
<b>INA 212(a)(10)(C) (International Child Abduction)</b>	This ground does not apply.	This ground applies and there is no waiver.	This ground applies and there is no waiver.	This ground applies (waiver available)
<b>INA 212(a)(10)(D) (Unlawful Voting)</b>	This ground does not apply.	This ground applies. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies. Waiver available for humanitarian purposes, family unity or otherwise in the public interest.	This ground applies (waiver available)
<b>INA 212(a)(10)(E) (Renunciation of Citizenship to Avoid Taxes)</b>	This ground does not apply.	This ground applies and there is no waiver.	This ground applies and there is no waiver.	This ground applies (waiver available)
<b>DOMESTIC VIOLENCE, PERSECUTION, AND CONFIDENTIALITY</b>				
<b>Conviction of a Crime of Domestic Violence</b>	Bar as a significant misdemeanor	Bar as a crime of domestic violence (waiver available)	See Criminal and Related Grounds above.	See Criminal and Related Grounds above.
<b>Persecution Bars</b>	See above on National Security.	Individuals are ineligible for relief if they have “ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.”	Individuals are ineligible for relief if they have ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.	While there is no explicit bar for persecution, an individual must not be inadmissible under (a)(2)(E), participation in Nazi persecutions, participation in genocide, or participation in commission of acts or torture or extrajudicial killings.
<b>Confidentiality</b>	Information for individuals who apply for relief may not be shared with ICE or	Information disclosed in applications or in DACA requests may not be used for	Information disclosed in applications may not be used for immigration	Under the statute, “[t]he Attorney General shall establish procedures to

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			immigration enforcement or be shared with federal security and law enforcement agencies unless disclosure is to identify or prevent fraud, for national security purposes, or for investigation or prosecution of a non-immigration felony prosecution.	enforcement or be shared with federal security and law enforcement agencies unless disclosure is to identify or prevent fraud, for national security purposes, or for investigation or prosecution of a non-immigration felony prosecution.



<sup>1</sup> Julia Gelatt, *More Than a DREAM (Act), Less Than a Promise*, Migration Policy Institute, March 2019, <https://www.migrationpolicy.org/news/more-dream-act-less-promise>.

<sup>2</sup> WHITE HOUSE, Presidential Memoranda, Memorandum on Extension of Deferred Enforced Departure for Liberians (March 28, 2019), available at <https://www.whitehouse.gov/presidential-actions/memorandum-extension-deferred-enforced-departure-liberians/>. (excluding “individuals who are ineligible for TPS for reasons set forth in section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B));”).

<sup>3</sup> See Memorandum from Janet Napolitano, Secretary, U.S. Department of Homeland Security to David V. Aguilar, Acting Commissioner, U.S. Customs and Border Protection, et al. on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), available at <http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>; U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Frequently Asked Questions, March 8, 2018, <https://www.uscis.gov/archive/frequently-asked-questions>.

<sup>4</sup> Dream and Promise Act of 2019, H.R.6, 116<sup>th</sup> Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/6>.

<sup>5</sup> INA 244, 8 U.S.C. § 1254a (West 2019).

<sup>6</sup> *Driving While Revoked, Suspended or Otherwise Unlicensed: Penalties by State*, National Conference of State Legislatures, Oct. 27, 2016, [www.ncsl.org/research/transportation/driving-while-revoked-suspended-or-otherwise-unli.aspx](http://www.ncsl.org/research/transportation/driving-while-revoked-suspended-or-otherwise-unli.aspx).

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<sup>7</sup> In many states even if a minor commits an offense while under the age of 18, they can be transferred to adult court to face prosecution. If convicted in adult court, this generally will be a conviction for immigration purposes. See *Rangel-Zuazo v. Holder*, 678 F.3d 967 (9<sup>th</sup> Cir. 2012).

<sup>8</sup> *Matter of Devison*, 22 I&N Dec. 1362 (BIA 2000) (en banc).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See the definition of a crime of domestic violence at 8 U.S.C. § 1227(a)(2)(E)(i). A “crime of violence” is defined under 18 U.S.C. § 16(a) alone, because 18 U.S.C. 16(b) was held to be unconstitutionally vague. *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018). The bill incorporates the definition at 18 U.S.C. 16(a).

<sup>12</sup> 8 C.F.R. 244.1.