



# LEGISLATION TO REPLACE DACA IN 115<sup>TH</sup> CONGRESS

*Practice Advisory*

By Mark Silverman, Elisa Vari and Krsna Avila

## Dream Act 2017 – Bipartisan and Permanent

### What is it?

The Dream Act would give conditional permanent resident status for eight years to individuals who entered the United States when they were 17 years or younger and who meet the specified requirements. This includes recipients of the Deferred Action for Childhood Arrivals program, temporary protected status beneficiaries, and individuals who are currently in removal proceedings or have final orders of removal. After eight years, individuals can remove their conditional permanent resident status and apply for lawful permanent resident status.

### Authors

Sen. Graham (R-SC). Cosponsors: Sen. Durbin (D-IL), Sen. Murkowski (R-AK), Sen. Feinstein (D-CA), Sen. Flake (R-AZ), Sen. Schumer (D-NY), Sen. Cortez Masto (D-NV), Sen. Harris (D-CA), Sen. Gardner (R-CO), Sen. Bennet (D-CO).

### Who does it cover?<sup>a</sup>

The Dream Act provides relief to individuals who are:

1. Recipients of the Deferred Action for Childhood Arrivals program or
  - a. Were 17 years old or younger on the date when they first entered the United States;
  - b. Have been continuously physically present in the United States since at least four years before the enactment of the Dream Act;
  - b. Are not inadmissible for committing certain serious crimes<sup>b</sup>; AND
  - c. Have obtained a high school diploma or certificate of completion from an equivalent institution or have been admitted to an institution of higher education.

### Benefits?

The Dream Act includes a path to lawful permanent resident status (LPR) and eventually citizenship. The age limit is more generous compared to previous DREAM Act bills, as it includes people who entered the United States before the age of 18, rather than 16. It is also more generous in that it provides for a route to LPR status for those who meet certain

<sup>a</sup> See S.1615, 115th Cong. (2017); National Immigration Law Center, Dream Act 2017 Summary and Answers to Frequently Asked Questions, <https://www.nilc.org/issues/immigration-reform-and-executive-actions/dreamact/dream-act-2017-summary-and-faq> (Jul. 24, 2017).

<sup>b</sup> For a more comprehensive list of inadmissibility grounds, see [ILRC's Criminal and Inadmissibility Bars for 2017 DREAM Act and Related Legislation](#) chart.

employment requirements instead of only allowing a route to LPR status based on education or military service. Importantly, this bill also includes a hardship exception for those who may not meet the employment, education, or military service requirement. Lastly, the Dream Act provides discretion to waive certain inadmissibility for humanitarian purposes, family unity, or in the public interest.

## BRIDGE Act – Bipartisan but Temporary

### What is it?

The Bar Removal of Individuals who Dream and Grow our Economy Act (BRIDGE Act) grants a one-time, three-year provisional protected presence (PPP) status to individuals who entered the United States when they were 15 years or younger and meet the specified requirements. PPP provides employment authorization and may not be removed unless the protected presence status is rescinded. This bill does not provide a path to lawful permanent resident status.

### Authors

Sen. Graham (R-SC). Cosponsors: Sen. Durbin (D-IL), Sen. Murkowski (R-AK), Sen. Feinstein (D-CA), Sen. Flake (R-AZ), Sen. Schumer (D-NY).

### Who does it cover?<sup>c</sup>

The BRIDGE Act covers people who meet the qualifications for the Deferred Action for Childhood Arrivals (DACA), regardless of whether they are currently or were formerly DACA recipients. As such, the eligibility requirements for the Bridge Act are the same as those for DACA. Specifically, the BRIDGE Act provides relief to individuals who:

1. Were born after June 15, 1981;
2. Were 15 years or younger when they first entered the United States;
3. Continuously resided in the United States between June 15, 2007 and the date on which the individual applies for PPP;
4. Were physically present between June 15, 2012 and the date on which the individual applies for PPP;
5. Were unlawfully present in the United States on June 15, 2012;
6. When filing an application for PPP, are enrolled in school or an education program, have graduated or have a certificate of completion from high school, have a GED certificate, or are veterans of the United States Coast Guard or Armed Forces;
7. Have not been convicted of a felony, significant misdemeanor, three or more misdemeanors; AND
8. Do not pose a threat to national security or public safety.

### Benefits?

The Bridge Act allows individuals who have DACA or are eligible for DACA to continue working and to stay in the United States lawfully. In addition, unlike DACA, if the Bridge Act becomes law, it can only be rescinded or changed by Congress, not by the President.

### Comments

The Bridge Act would only be a temporary fix. Individuals would be protected for a maximum of three years after the enactment of the bill, but no path to lawful permanent resident status or other immigration status would be provided. Moreover, unlike the Dream Act, the Bridge Act has a stricter age limit in that the Bridge Act only includes persons who entered the United States when they were 15 years old or younger.

<sup>c</sup> See S. 128, 115th Cong. (2017); National Immigration Law Center, FAQ: The Bridge Act, <https://www.nilc.org/issues/daca/faq-bridge-act> (Apr. 6, 2017).

## RAC Act – Bipartisan (only one Democratic co-sponsor) and Permanent

### What is it?

The Recognizing America’s Children Act (RAC Act) would give conditional permanent resident status that lasts five years to individuals who entered the United States when they were 15 years or younger and meet the specified requirements. This bill provides a path to lawful permanent residency after individuals receive an extension of their conditional permanent resident status.

### Authors

Rep. Curbelo (R-FL-26). Cosponsors: Rep. Sinema, (D-AZ-9), Rep. Coffman (R-CO-6), Rep. Denham (R-CA-10), Rep. Diaz-Balart (R-FL-25), and multiple other Republican cosponsors.

### Who does it cover?<sup>d</sup>

It covers individuals who:

1. Were 15 years or younger when they first entered the United States;
2. Have been continuously present in the United States since January 1, 2012;
3. Demonstrate “good moral character” (e.g. no felony or multiple misdemeanors convictions);
4. Are not inadmissible for certain serious crimes;<sup>e</sup>
5. Are over 18 years old and have a high school diploma or GED, have been admitted to a higher education institution or have a valid work authorization; AND
6. Have never been under a final order of deportation, exclusion or removal unless the order was received prior to their 18<sup>th</sup> birthday.

### Benefits?

If the individual continues to meet the RAC Act’s eligibility requirements, conditional permanent resident status may be extended for an additional five years by meeting certain additional conditions. Once a person has been granted an extension, the individual may apply for lawful permanent resident status. The RAC Act also provides discretion to waive certain inadmissibility for humanitarian purposes, family unity, or in the public interest.

### Comments

The RAC Act covers fewer people compared to the Dream Act due to, among other factors, a stricter age limit which only includes persons who entered the United States before the age of 16. Moreover, the RAC Act requires that a person extend his/her conditional permanent resident status before applying for lawful permanent resident status and does not include an option for persons who enroll in a secondary school.

<sup>d</sup> See H.R. 1468, 115th Cong. (2017); National Immigration Forum, Recognizing America’s Children (RAC) Act: Bill Summary, <http://immigrationforum.org/blog/recognizing-americas-children-rac-act-bill-summary> (Apr. 6, 2017).

<sup>e</sup> For a more comprehensive list of inadmissibility grounds, see [ILRC’s Criminal and Inadmissibility Bars for 2017 DREAM Act and Related Legislation](#) chart.

## American Hope Act – Democratic and Permanent

### What is it?

The American Hope Act would give conditional permanent resident status for up to eight years to individuals who entered the United States when they were 17 years or younger and who meet the specified requirements. After three years, persons can remove their conditional permanent resident status by applying for lawful permanent resident status.

### Authors

Rep. Gutierrez (D-IL-4). Cosponsors: Rep. Lofgren (D-CA-19), Rep. Roybal-Allard (D-CA-40), Rep. Lujan Grisham (D-NM-1), and multiple other Democratic cosponsors.

### Who does it cover?<sup>f</sup>

The American Hope Act provides relief to individuals who:

1. Were 17 years old or younger on the date when they first entered the United States;
2. Continuously resided in the United States since December 31, 2016; AND
3. Are not inadmissible for committing certain serious crimes.<sup>g</sup>

### Benefits?

The American Hope Act allows recipients to obtain federal financial aid for higher education. The bill also provides for the creation of an English learning program.

Former Deferred Action for Childhood Arrivals (DACA) recipients would be “fast-tracked” in removing their conditional permanent resident status, as their time as DACA recipients would count towards the three years required before applying for lawful permanent residency.

## Succeed Act – Republican and Permanent

### What is it?

The Solution for Undocumented Children through Careers Employment Education and Defending our nation Act (SUCCEED Act) is a Republican bill which would grant conditional permanent resident status for five years to individuals who were 15 years or younger when they first entered the United States and meet the specified requirements. Individuals must receive an extension of their conditional permanent resident status and wait a total of 10 years before applying for lawful permanent resident status.

### Authors

Sen. Tillis (R-NC). Cosponsors: Sen. Lankford (R-OK), Sen Hatch (R-UT).

<sup>f</sup> See H.R. 3591, 115th Cong. (2017); National Immigration Forum, American Hope Act of 2017: Bill Summary, <http://immigrationforum.org/blog/american-hope-act-of-2017-bill-summary> (Aug. 2, 2017).

<sup>g</sup> For a more comprehensive list of inadmissibility grounds, see [ILRC's Criminal and Inadmissibility Bars for 2017 DREAM Act and Related Legislation](#) chart.

## Who does it cover?<sup>h</sup>

The SUCCEED Act covers individuals who

1. Were 15 years or younger when they entered the United States;
2. Were 30 years old or younger on June 15, 2012;
3. Have been continuously present in the United States since June 15, 2012;
4. If 18 years or older, have earned a high school diploma or its equivalent, have been admitted to a higher education institution in the United States, have served or are serving in the United States armed forces or, if younger than 18, are attending or have enrolled in primary, secondary, or postsecondary school;
5. Have been of “good moral character” since entering the United States;
6. Have paid any unpaid taxes or are enrolled in a repayment plan approved by the Internal Revenue Service;
7. Are not inadmissible for certain serious criminal offenses;<sup>i</sup> AND
8. Have not been subject to a final order of exclusion, deportation, or removal.

## Benefits?

The Succeed Act allows eligible individuals to continue working and living in the United States lawfully and eventually apply for lawful permanent resident status.

## Comments

It may take as long as 15 years for recipients to obtain citizenship since persons will have to first apply for lawful permanent resident status after 10 years of having conditional permanent resident status. The bill also prohibits conditional permanent resident status from sponsoring other relatives for immigration status.

Sponsors say this will not be “stand alone” legislation and will likely be paired with border security legislation.



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### About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC’s mission is to protect and defend the fundamental rights of immigrant families and communities.

<sup>h</sup> See S. 1852, 115th Cong. (2017); National Immigration Forum, The Succeed Act: Bill Summary, <http://immigrationforum.org/blog/the-succeed-act-bill-summary> (Sep. 28, 2017).

<sup>i</sup> For a more comprehensive list of inadmissibility grounds, see [ILRC’s Criminal and Inadmissibility Bars for 2017 DREAM Act and Related Legislation](#) chart.