

IMMIGRATION

RELIEF BILLS

INTRODUCED IN

CONGRESS IN

2021

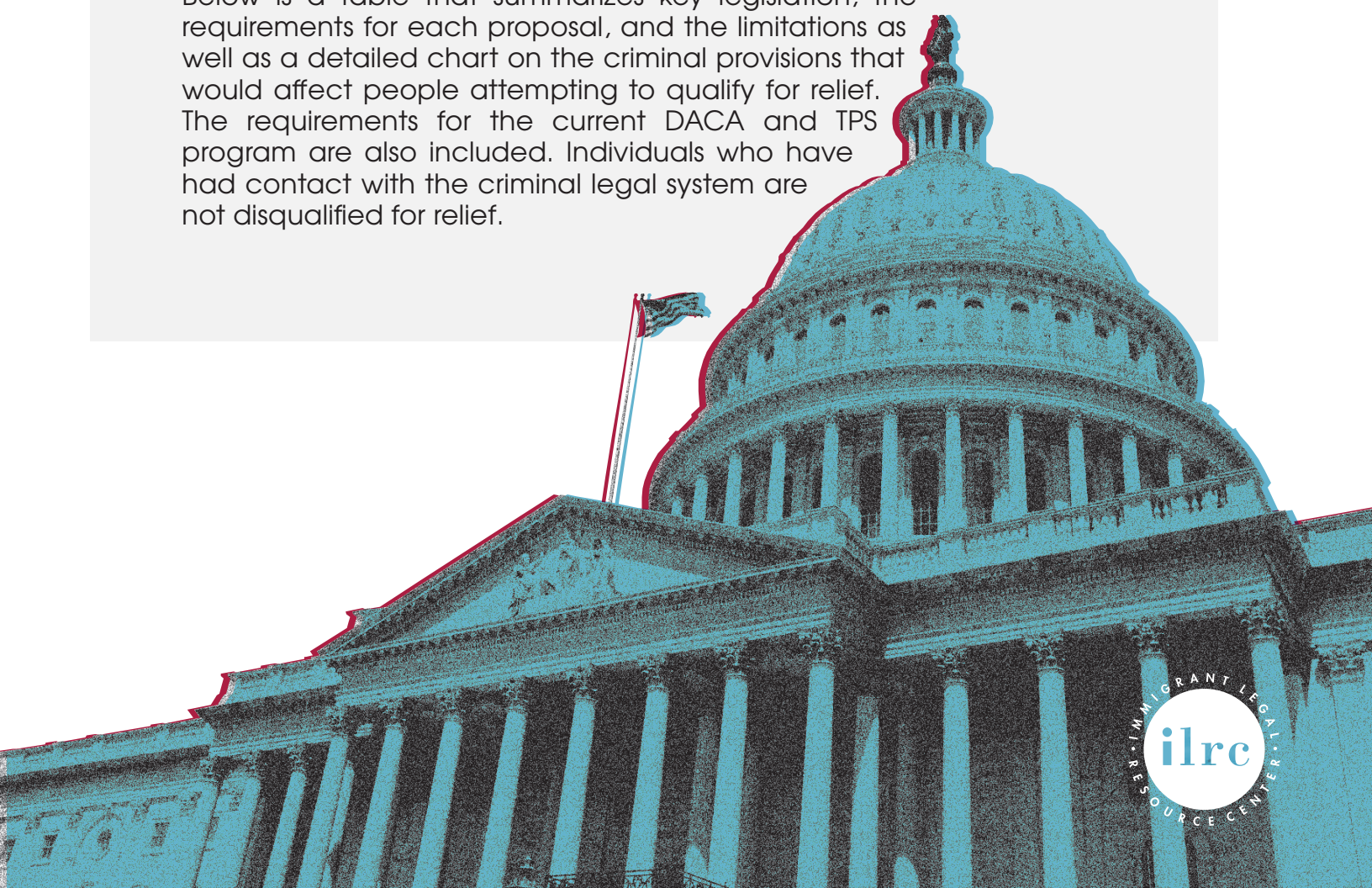


IMMIGRATION RELIEF BILLS

2021

Various pieces of legislation have been introduced in the US Congress in 2021 designed to provide immigration relief to certain members of the undocumented community. In this resource, we provide a comparison of key provisions of some of these bills. The ILRC applauds the leadership and organizing of immigrant communities who have bravely fought for years to ensure these proposals for relief are considered by Congress and that all members of our communities can live with dignity. These bills are important steps forward in addressing the inequities in our immigration system, however the ILRC believes that legislative proposals should be fully inclusive so that individuals who have had contact with the criminal legal system are not disqualified for relief.

Below is a table that summarizes key legislation, the requirements for each proposal, and the limitations as well as a detailed chart on the criminal provisions that would affect people attempting to qualify for relief. The requirements for the current DACA and TPS program are also included. Individuals who have had contact with the criminal legal system are not disqualified for relief.



U.S. CITIZENSHIP ACT

(H.R. 1177)

STATUS AS OF APRIL:
Referred to Committee.

Provides individuals temporary legal status for six years with option to obtain lawful permanent residency after five years.

Persons with Deferred Action for Childhood Arrivals (DACA) or who entered the country before 18 years old and satisfy certain educational requirements; agricultural workers; Temporary Protected Status (TPS); or Deferred Enforced Departure (DED) could apply directly for lawful permanent residency.

ELIGIBLE IF...

Have been continuously present in the United States since January 1, 2017, **AND**

Have paid all required federal taxes, **AND**

Pass a criminal and background check.

A felony or misdemeanor do not include any offense under state law for which an essential element is the person's immigration status ("state immigration offense").

A misdemeanor also does not include minor traffic offenses, certain minor cannabis offenses, xviii or offenses involving non-violent civil disobedience.

INELIGIBLE IF...

Convicted of one felony, **OR**

Three misdemeanors that did not occur on the same date or arise from the same scheme, **OR**

Inadmissible under Criminal Grounds, **OR**

Security and related grounds, **OR**

Smuggling, **OR**

Permanently ineligible for citizenship
International child abduction, **OR**

Renouncing citizenship to avoid taxation.

Can waive criminal inadmissibility grounds at INA § 212(a)(2)(A), (C), or (D) (moral turpitude and drug offenses, immigration authorities have reason to believe the person trafficked in drugs, and prostitution).

Can waive INA § 212(a)(2)(B) (inadmissible for two or more convictions for which an aggregate sentence of five years or more was imposed) if the person has not had any convictions within the ten years preceding the application.

Can waive conviction/s for purposes of the one felony/three misdemeanor bar. To waive one misdemeanor, the person must have had no convictions in the five years preceding the application. To waive two misdemeanors or one felony, the person must have had no convictions in the preceding ten years, and the felony must not be an aggravated felony.

The statute sets out factors for DHS to consider for the waiver.

DREAM/PROMISE ACT

*STATUS AS OF March:
Passed by House.*

(H.R. 6)

The Dream Act provides individuals conditional permanent resident status for up to 10 years with ability to obtain lawful permanent residency after meeting certain requirements for individuals who arrived at 18 years of age or before.

The American Promise Act provides individuals who have TPS or DED ability to obtain lawful permanent residency.

ELIGIBLE IF...

Dream Act:

Are continuously physically present in the US on or before January 1, 2021, **AND**

Initially entered at 18 years old or younger, **AND**

Have graduated from high school, obtained GED, or industry recognized credential or equivalent, **AND**

Pass security checks.

Promise Act:

Have been in the United States for a period of 3 years before the enactment of the law, **AND**

Are eligible for or had TPS on September 17, 2017 or had DED status as of January 20, 2021.

INELIGIBLE IF...

Convicted of one felony, **OR**

Three misdemeanors that did not occur on the same date or arise from the same scheme, **OR**

Inadmissible under Criminal Grounds, **OR**

Security and related grounds, **OR**

Smuggling, **OR**

Permanently ineligible for citizenship
International child abduction, **OR**

Renouncing citizenship to avoid taxation.

The Dream Act can waive criminal inadmissibility grounds at INA § 212(a)(A), (C), or (D) (moral turpitude and drug offenses, immigration authorities have reason to believe the person trafficked in drugs, and prostitution).

It can also waive conviction/s for purposes of the one felony/three misdemeanor bar, and for purposes of the bar, which is unique to this version of the Dream Act, based on a misdemeanor conviction of a crime of domestic violence. For these purposes, the applicant can waive one misdemeanor if they had no convictions at all for the five-year period preceding the application, and can waive two misdemeanors and/or one felony if they had no convictions in the preceding ten-year period.

Like the Dream Act, **the Promise Act** can waive inadmissibility under INA § 212(a)(A), (C), or (D). It will not waive convictions for purposes of the one felony/ two misdemeanor bar.

DREAM ACT OF 2021

(S. 264)

STATUS AS OF APRIL:
Referred to Committee.

Provides conditional permanent resident status with opportunity to obtain lawful permanent residency for individuals who arrived in the United States before the age of 18.

DACA Recipients who continue to be eligible for DACA are eligible to adjust to lawful permanent residency.

ELIGIBLE IF...

Are continuously present in the United States for 4 years prior to the enactment of the law, **AND**

Were younger than 18 years of age when they entered the United States, **AND**

Meet certain educational requirements, **AND**

Pass certain background checks and medical examination.

Expunged convictions are considered on a case-by-case basis according to the nature, severity of the offense and considering individual circumstances.

INELIGIBLE IF...

Convicted of one felony, **OR**

Three misdemeanors where the convictions did not occur on the same date, and the person spent an aggregate 90 days or more in jail.

Inadmissible under Criminal Grounds, **OR**

Security and related Grounds, **OR**

Smuggling, **OR**

Student visa abusers, **OR**

Ineligible for citizenship, **OR**

Practicing polygamist, **OR**

International child abduction, **OR**

Unlawful voters.

Other bars:

Persecutors are barred.

The Dream Act of 2021 can waive any criminal ground of inadmissibility.

Prevents removal of persons who appear prima facie eligible for relief under this section; provides opportunity to apply for relief. Stay of removal for individuals who meet requirements and are at least 5 years of age, enrolled in an elementary school, a secondary school, or an early childhood education program. Repeals IIRAIRA section 505 preventing a person not lawfully present in the United States from being eligible on the basis of residence within a State for any postsecondary education benefit.

FARM WORKFORCE

(H.R. 1603)

STATUS AS OF March:
Passed by House.

The Farm Workforce and Modernization Act of 2021 provides a process for farm workers to seek Certified Agricultural Worker (CAW) Status and permanent residency for those who meet program requirements.

ELIGIBLE IF...

5.5. years of certified agricultural status given to individuals who have worked at least 180 days in agriculture over the last 2 years prior to the enactment of the law, **OR**

Optional lawful permanent residency for long term workers who have worked at least 100 days each year, for at least 10 years prior to the date the law starts and for at least 4 years in certified agricultural worker status, **OR**

If less than 10 years prior to the start of the law and for at least 8 years in certified agricultural worker status, Are not ineligible for CAW status, **AND**

Pay \$1,000 fine, **AND**

Pass certain background checks.

*Inadmissibility Grounds that **DO NOT** apply:*

*Public charge, **OR***

*Labor certification and qualifications for certain immigrants, **OR***

*Documentation requirements, **OR***

Unlawfully present.

INELIGIBLE IF...

Convicted of one felony, **OR**

Three misdemeanors not occurring on the same date or arising from the same scheme. **OR**

An aggravated felony, **OR**

Two misdemeanor crimes involving moral turpitude.

Inadmissible under health related grounds, **OR**

Criminal grounds, **OR**

Smuggling, **OR**

Security and related grounds, **OR**

Ineligible for citizenship, **OR**

Other grounds under 212(a)(10).

*For list of inadmissible under the certain grounds, **ONLY** if it occurred after the date the Act is introduced, visit link below.*

The Farm Workforce and Modernization Act of 2021 can waive criminal inadmissibility grounds at INA § 212(a)(2)(A), (D) (moral turpitude, drug offense, prostitution) – unless the conviction also is a bar as a felony, aggravated felony, or three misdemeanors.

It streamlines and improves H-2A system – consolidates process for employers, improves wages for workers and improves access to housing. It also makes E-Verify mandatory throughout the agricultural industry.

For a comprehensive breakdown, visit ilrc.org/immigration-relief-2021

ESSENTIAL WORKERS

(S. 747)

STATUS AS OF MARCH:
Referred to Committee.

The Citizenship for Essential Workers Act provides a process for certain individuals working in certain sectors, industries, and occupations to obtain lawful permanent residency.

ELIGIBLE IF...

Work in certain private, public, or nonprofit sectors; industries or occupations and earned income for that work during the period described, **OR**

Have earned income in any sector, industry or occupation described but who was unable to continue work, **OR**

Are the surviving parent, spouse, son or daughter of an individual who: performed work in the sectors described and died of COVID, **OR**

Are the parent, spouse, son, or daughter of a member of the Armed Forces, including the national guard,

AND

Are physically present on day that application is submitted and has continuously been physically present since Jan. 1, 2021 until application is approved.

INELIGIBLE IF...

Convicted of one felony, **OR**

Three misdemeanors that did not occur on the same date or arise from the same scheme.

Inadmissible under criminal grounds, **OR**

Security and related grounds, **OR**

Smuggling, **OR**

Ineligible for citizenship, **OR**

International child abduction, **OR**

Former citizens who renounced citizenship to avoid taxation.

For other ineligible groups, visit the link below.

Can waive inadmissibility under INA 212(a)(6), (8), (10)(C), and (10)(E).

Can waive INA § 212(a)(2)(A), (C), (D) (inadmissible for moral turpitude and drug offenses, immigration authorities have reason to believe the person trafficked in drugs, and prostitution. It also broadens the petty offense exception to the moral turpitude ground, see "Other Provisions of Note," below).

Can waive INA § 212(a)(2)(B) (inadmissible for two or more convictions for which an aggregate sentence of five years or more was imposed) if the person has not had any convictions within the ten years preceding the application.

Can waive conviction/s for purposes of the one felony/three misdemeanor bar. To waive one misdemeanor, the person must have had no convictions in the five years preceding the application. To waive two misdemeanors or one felony, the person must have had no convictions in the preceding ten years, and the felony must not be an aggravated felony.

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