

**The Development, Relief, and Education for Alien Minors Act of 2009
(DREAM Act) (S. 729)**

*Section-by-Section Summary Prepared by Migration and Refugee Services
United States Conference of Catholic Bishops*

April 2009

Section 1: Short Title: “The DREAM Act of 2009”.

Section 2: Definitions: Defines “Institution of Higher Education” and “Uniformed Services”.

Section 3: Restoration of State Option to Determine Residency for Purposes of Higher Education Benefits

Retroactively repeals current law so that any state may offer in-state tuition to unauthorized aliens who graduated high-school in their state, without also having to offer in-state tuition to U.S. citizens who graduated high school in their state but currently reside out-of-state.

Section 4: Cancellation of Removal and Adjustment of Status of Certain Long-Term Residents Who Entered the United States as Children

(a) Eligibility Criteria:

- (1) Conditional Status: Allows certain aliens to obtain conditional permanent resident status provided that they:
 - entered the United States before age 16 and are currently under age 35
 - have been continuously physically present in the United States for at least five years before enactment of DREAM
 - have a high school diploma or GED or have been accepted to college
 - demonstrate good moral character
 - are not inadmissible or removable on certain criminal and security grounds
 - and were never under a final order of exclusion (subject to limited exceptions)
- (2) Waiver: Allows the DHS Secretary to waive certain ineligibility and deportability grounds for humanitarian or family unity purposes.
- (3) Application Procedure: Requires that the DHS Secretary provide a procedure for eligible aliens to apply for adjustment of status under DREAM without being placed in removal proceedings.

(b) Termination of Continuous Presence Period: Establishes that “continuous presence” is not terminated when an alien is served with a notice to appear.

- (c) Breaks in Continuous Presence: Establishes that “continuous presence” is terminated if an alien has left the United States for a 90-day period or an aggregate period of 180 days, absent certain exceptional circumstances.
- (d) Exemption From Numerical Limitations: Establishes that there is no numerical limitation on the number of aliens who may apply for DREAM Act relief.
- (e) Regulations: Requires that the DHS Secretary publish regulations implementing this section within 180 days following enactment of DREAM.
- (f) Removal: Prohibits the DHS Secretary from removing aliens with pending DREAM Act applications from the United States.

Section 5: Conditional Permanent Resident Status

- (a) Conditional Status: Makes conditional status valid for six years, subject to termination under subsection (b). The DHS Secretary shall notify aliens who obtain conditional status under DREAM that their status is conditional in nature and that they must later petition DHS if they wish to have their conditional status removed. Failure of the Secretary to provide such notice does not affect enforcement of DREAM or give rise to a private right of action.
- (b) Termination of Status: The Secretary shall terminate an alien’s conditional status if the alien does not maintain good character, becomes a public charge, becomes inadmissible or deportable under specified provisions of the INA, or receives an other than honorable discharge from the uniformed services. Upon termination of status, the alien will return to the immigration status the alien had before DREAM was enacted.
- (c) Requirement for Petition: Aliens must petition the Secretary to have their conditional status removed. The Secretary will determine the merits of petitions and notify petitioners whether their petition was granted or not. Aliens may file to remove their conditional basis either 180 days before or two years after the alien has been in conditional status for six years.
- (d) Details of Petition: Sets forth the required contents of the petition, including evidence of good character, compliance with inadmissibility and deportability restrictions, evidence of continuous residence, evidence of a college degree or honorable military service, and a listing of all secondary schools attended. Vests the Secretary with discretion to grant extensions for good cause shown or make hardship exceptions to the petition requirements for cases involving certain exceptional circumstances.
- (e) Naturalization: For the purposes of naturalization, aliens with conditional status under DREAM will be treated as having permanent resident status.

Section 6: Retroactive Benefits Under This Act

Permits the Secretary to grant conditional resident status to an alien of any age provided that the alien meets all the prerequisites of section 4 (including continuous presence, no crimes or security risk, etc., but the alien need not be under 35 years of age) and has *already completed* the collegiate education or military service requirement of section 5 *before the enactment of DREAM*. The alien can also gain permanent resident status after six years if the alien maintains good character, is not inadmissible or

deportable for criminal or security reasons under the INA, and maintains continuous residence throughout the conditional period.

Section 7: Exclusive Jurisdiction

- (a) Jurisdiction: Rests exclusive jurisdiction to determine applicant eligibility in the DHS Secretary, except in certain cases where the alien is in deportation, exclusion, or removal proceedings, in which case jurisdiction temporarily rests in the Attorney General.
- (b) Stay of Removal: Allows the Attorney General to stay the removal of an alien who is at least twelve years of age, is enrolled in a primary or secondary school, has been continuously present in the United States for at least five years, has demonstrated good moral character, is not inadmissible or deportable for criminal or security reasons under the INA, and has not been under a final order of exclusion.
- (c) Employment Authorization: Aliens who are granted a stay of removal under subsection (b) can also be granted work-authorization.
- (d) Lift of Stay: Requires the Attorney General to lift the stay of removal if the alien no longer meets the requirements of subsection (b).

Section 8: Penalties for False Statements in Application

Establishes a maximum penalty of five years imprisonment and/or a monetary fine for willful and knowing misrepresentation or concealment or false statement of a material fact in applying for DREAM Act relief.

Section 9: Confidentiality of Information

- (a) Prohibited Disclosure: Prohibits government officials or employees from misusing applicant information under DREAM by publishing it, using it to initiate removal proceedings, or permitting non-governmental personnel to examine it.
- (b) Required Disclosure: Requires the Attorney General to disclose applicant information to specified law enforcement entities for prosecution on certain criminal or national security related grounds. Also requires such disclosure to an official coroner for identification purposes.
- (c) Fine: Establishes a \$10,000 fine for violations of this section.

Section 10: Expedited Processing of Applications; Prohibition on Fees

Requires that the DHS Secretary issue regulations mandating expedited consideration of DREAM Act applications and prohibits any additional fees for such consideration.

Section 11: Higher Education Assistance

Makes aliens who adjust to permanent resident status under DREAM eligible for student loans, federal work-study programs, and services under the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

Section 12: GAO Report

Requires the Comptroller General to submit a report to the Senate and House Judiciary Committees within seven years of the enactment of DREAM detailing certain statistics on the number of DREAM applicants and their rates of success in adjusting status.