

DREAM Provisions in S. 744

Border Security, Economic Opportunity, and Immigration Modernization Act of 2013

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S. 744, the historic bipartisan comprehensive immigration reform bill that passed the Senate on June 27, 2013, by a vote of 68-32, incorporates key provisions from the Development, Relief, and Education for Alien Minors (DREAM) Act. S. 744's DREAM provisions would provide a direct road to U.S. citizenship for undocumented youth who graduate from U.S. high schools and attend college or perform military service.

Through the Deferred Action for Childhood Arrivals (DACA) program, introduced by President Obama on June 15, 2012, some of these young people have received temporary permission to stay in the U.S. for two years. However, DACA recipients are still without a road to lawful permanent resident (LPR) status or U.S. citizenship. Under current law, DREAMers generally derive their status solely from their parents, and if their parents are undocumented or in immigration limbo, most have no way to obtain legal residency, even if they have lived most of their lives in the U.S.

Overview: DREAM provisions in S. 744

S. 744 would enact the following changes to current law:

- Permit students who have grown up in the U.S. to apply for registered provisional immigrant (RPI) status and eventually to obtain LPR status (a "green card") if they go to college or serve in the U.S. military.
- Provide an expedited pathway — it would take 5 years — from RPI status to LPR status and citizenship.
- Allow young people who have been deported to apply to reenter the U.S. if they meet the eligibility requirements of S. 744's DREAM provisions.
- Improve college affordability for DREAMers and other immigrants by changing rules that limit their access to in-state tuition and college loans.

If enacted, S. 744's DREAM provisions may also result in the creation of streamlined procedures by which young people who have already received DACA could adjust to permanent legal immigration status (see below). Moreover, the DREAM provisions would have a life-changing impact on the young people who qualify to adjust to legal status under

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them, dramatically increasing their average future earnings and, consequently, the contribution they would make to their communities via the taxes they would pay.

Adjustment to lawful status

S. 744 would make it possible for certain undocumented immigrants to obtain RPI status. To be eligible, they would have to have been physically present in the U.S. on or before December 31, 2011, have maintained continuous presence until the date they apply for RPI status, have paid taxes, fees and penalties, and not have been convicted of certain criminal offenses.

Individuals granted RPI status would be considered to be lawfully present in the U.S. as of the date they filed their RPI application. They would be authorized to work and would be eligible to be issued Social Security numbers.

DREAMers first would need to apply for RPI status, either through the regular process as a primary applicant or a dependent of a primary applicant, or through a streamlined process for DACA recipients. After being in RPI status for 5 years, DREAMers would be able to apply to adjust to LPR status (see below).

Adjustment from RPI status to lawful permanent residence and citizenship

Generally. Under S. 744, generally people who had been in RPI status for 10 years would be eligible to apply to adjust to LPR (green card) status. They would then have to be in LPR status for 3 years before they would be eligible to apply for U.S. citizenship. A person with RPI status would not be able to apply directly for citizenship without first adjusting to LPR status.

DREAMers. People who qualify under S. 744's DREAM provisions, however, would be eligible to apply for LPR status after being in RPI status for only 5 years. Furthermore, once they were granted LPR status, they would be eligible immediately to apply for U.S. citizenship. To qualify for this expedited road to LPR status and citizenship, DREAMers would have to have:

- Entered the U.S. prior to the age of 16;
- Earned a high school diploma or obtained a general education development certificate (GED); and
- Received a degree from an institution of higher education or completed 2 years in a program for a bachelor's or higher degree or served honorably for 4 years in the military.

DACA recipients. The secretary of the U.S. Department of Homeland Security (DHS) might adopt streamlined procedures by which DREAMers who have already been granted DACA could adjust to LPR status.

College affordability

The DREAM provisions of S. 744 would repeal section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which currently discourages states from making students eligible for in-state tuition or providing them other higher education benefits without regard to their immigration status.

The DREAM provisions would also allow RPIs who entered the U.S. before their sixteenth birthday to be eligible for federal student loans. These loans would also be available for anyone in “blue card” status through S. 744’s agricultural worker legalization provisions.

Frequently asked questions

If I have been approved for DACA, does that mean that I would be eligible automatically for RPI status under the comprehensive immigration reform bill?

Not necessarily. The DHS secretary would have the discretion to grant DACA recipients RPI status if they had been screened for national security and law enforcement purposes and had not engaged in conduct that would make them ineligible. It is likely, therefore, that the secretary would create a streamlined process for those granted DACA.

If I have been deported, might I qualify for RPI status as a DREAMer?

Yes, you might qualify if you were under 16 years of age when you entered the U.S. and received a high school diploma or a general education certificate from a high school in the U.S. Alternatively, you might qualify if you were under 16 years of age when you entered the U.S., lived in the U.S. an aggregate of 3 years in the 6 years preceding the passage of the bill, and were over 16 years of age at the time you applied. There is also a hardship exception that would allow the DHS secretary to waive the high school degree requirement if you could demonstrate a compelling reason why you could not meet that requirement.

I have a prior removal order. Would that disqualify me from applying under S. 744’s DREAM provisions?

No. The fact that a removal order (an order that you be removed from the U.S.) has been issued against you in the past would not make you ineligible to apply for RPI status.

I was too old to apply for DACA. Can I still apply under S. 744’s DREAM Act provisions?

Yes. As long as you meet the other DREAM-related criteria for legalization, there is no upper age limit for applying under S. 744’s DREAM provisions.

I have been arrested or convicted of an offense. Can I still qualify for legalization under S. 744’s DREAM provisions?

It depends on your record. In general, anyone convicted of 1 felony or 3 misdemeanors (not including minor traffic offenses) will be ineligible for RPI status. If you have ever been convicted of an offense or arrested by a law enforcement officer, it is important that you get legal advice from a lawyer who is an expert in the immigration consequences of criminal arrests and convictions.

How many years would I have to be in LPR status before I could apply for citizenship, if I qualify for the DREAM path to legalization?

You would be eligible to apply for citizenship as you soon as you got LPR status.

Would I be eligible to participate in the health insurance programs of the Affordable Care Act (health care reform or “Obamacare”) if I had RPI status?

Although you would have a lawful status and would be able to buy health coverage at full price in the health insurance exchanges created by the Affordable Care Act, the Senate immigration bill would make you ineligible for the subsidies (in the form of tax credits) that make this health insurance more affordable.

As a person with RPI status, you also would not be eligible for health coverage under federal Medicaid (insurance for low-income individuals) or the Children’s Health Insurance Program (CHIP). Neither would you be eligible for the major federal safety-net programs: temporary cash assistance under Temporary Assistance for Needy Families (TANF), benefits for people with disabilities under the Supplemental Security Income (SSI) program, or assistance under the Supplemental Nutrition Assistance Program (SNAP, formerly food stamps).

Will DACA grantees or DREAMers who get RPI status be required to have their employment eligibility verified through E-Verify?

Yes. If S. 744 (as it’s currently written) is enacted, it will require all employers in the U.S. to use the federal government’s electronic employment eligibility verification system (EEVS), which currently is called E-Verify, to verify the employment eligibility of newly hired employees. The requirement would be phased in by employer size; larger employers would be the first to have to comply with the new mandate, followed by smaller ones. S. 744’s EEVS-mandate provision contains important due process and worker protections for U.S. citizens and work-authorized people who are affected if, for example, E-Verify says that they are not eligible to work when in fact they are.

I’m a DREAMer and I’m ready. How and where can I apply for legal status?

Unfortunately, S. 744 and its DREAM provisions are not yet law. Although the Senate passed the bill, a few more steps are necessary before it can become law.

First, the House of Representatives must pass an immigration bill that can be merged with the Senate bill. Then the merged (or “reconciled”) bill, which could be very different from the bill passed by the Senate, must be approved by both the Senate and the House. Finally, the approved bill must be signed into law by President Obama.