

Side by Side: DACA Solutions in the Dream and USA Acts

JUNE 2018

ON JANUARY 13, 2018, U.S. Citizenship and Immigration Services (USCIS) announced that it was once again accepting DACA (Deferred Action for Childhood Arrival) renewal applications. This announcement followed a decision in the *Regents of the University of California v. Department of Homeland Security* court case in which the court ordered that USCIS resume accepting and adjudicating applications for DACA renewal.

Yet DACA recipients are still without a pathway to U.S. citizenship, and the DACA renewal process could become unavailable in the near future, depending on what happens in the courts. (More information about DACA-related court cases can be found in our publication [Status of Current DACA Litigation](#).)

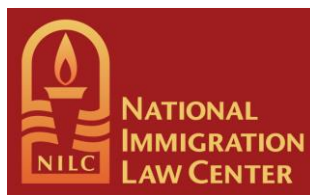
Members of Congress from both political parties have introduced legislation that would provide relief to certain undocumented people who came to the U.S. as minors. The Dream Act of 2017 and the USA Act of 2018 are two bills that

have been considered. (For information on other bills introduced, see our publication [Legislation to Protect DACA Recipients/Immigrant Youth](#).) Both the Dream Act of 2017 and the USA Act of 2018 include pathways to U.S. citizenship for immigrant youth, but the USA Act also includes several provisions addressing border enforcement and changes to the immigration court system, and it provides for various types of aid to Central American countries, with the aim of addressing the root causes of migration.

The table below compares the Dream Act of 2017 with the provisions in the USA Act that would provide relief for immigrant youth. The main differences between the two bills are italicized. We highly recommend that you read the entire USA Act to become familiar with all its provisions and that you monitor activity on these bills and other, similar bills, including the introduction of any amendments to them.

	Dream Act of 2017	United and Securing America Act of 2018 (USA Act)
Date introduced	S. 1615 – introduced on July 20, 2017 H.R. 3440 – introduced on July 26, 2017	H.R. 4796 – introduced on January 16, 2018
Sponsors and cosponsors	S. 1615 – sponsored by Sens. Lindsay Graham (R-SC) and Richard Durbin (D-IL); cosponsored by Sens. Jeff Flake (R-AZ), Charles Schumer (D-NY), Catherine Cortez Masto (D-NV), Lisa Murkowski (R-AK), Dianne Feinstein (D-CA), Kamala Harris (D-CA), Cory Gardner (R-CO), Michael Bennet (D-CO), and Bill Nelson (D-FL). H.R. 3440 – sponsored by Rep. Lucille Roybal-Allard (D-CA); cosponsored by 203 representatives (197 Democrats, 6 Republicans).	H.R. 4796 – sponsored by Rep. Will Hurd (R-TX); cosponsored by 59 representatives (30 Democrats, 29 Republicans).
Step 1: Becoming a conditional permanent resident (CPR)	Apply for CPR status, valid for an initial period of 8 years. Current DACA recipients acquire CPR status, unless they have engaged in conduct that would otherwise make them ineligible for DACA.	Apply for CPR status, also valid for an initial period of 8 years. To be eligible, applicant would have to be undocumented, a DACA recipient, or a temporary protected status (TPS) beneficiary, <i>have been continuously physically present in the U.S. since December 31,</i>

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	<p>To be eligible, applicant would have to be undocumented, a DACA recipient, or temporary protected status (TPS) beneficiary,¹ <i>have been continuously physically present in the U.S. since the date that is 4 years before the date of the bill's enactment</i>, initially entered the U.S. before the age of 18, and meet the educational requirement.</p> <p>Education requirement for CPR status:</p> <ul style="list-style-type: none"> • admitted to an institution of higher education; or • earned high school diploma or commensurate alternative award from a public or private high school, or obtained a GED certificate or a high school equivalency diploma; or • enrolled in a secondary school or in an education program that assists students in getting a regular high school diploma, recognized equivalent, or GED/state-authorized exam. 	<p>2013, initially entered the U.S. before the age of 18, and meet the educational requirement.</p> <p>Education requirement for CPR status:</p> <ul style="list-style-type: none"> • admitted to an institution of higher education; or • earned high school diploma or commensurate alternative award from a public or private high school, or obtained a GED certificate or a high school equivalency diploma; or • enrolled in a secondary school or in an education program that assists students in getting a regular high school diploma, recognized equivalent, or GED/state-authorized exam.
<p>Step 2: Becoming a lawful permanent resident (LPR)</p>	<p>People with CPR may apply for LPR status if they:</p> <ul style="list-style-type: none"> • do not have certain criminal issues • have continuously lived in the U.S.² • have done one of the following: <ol style="list-style-type: none"> 1. acquired a degree from an institution of higher education, or completed at least 2 years in a bachelor's degree program or higher degree program, or 2. served for at least 2 years in the uniformed services or have been honorably discharged, or 3. been employed for periods totaling at least 3 years and worked at least 75 percent of the time with valid employment authorization (if the person was not working, they must show that they were enrolled in school or an education program) <p>A hardship exception may be available for people who do not meet at least some of the above requirements.</p>	<p>People with CPR may apply for LPR status if they:</p> <ul style="list-style-type: none"> • do not have certain criminal issues. • have done one of the following: <ol style="list-style-type: none"> 1. acquired a degree from an institution of higher education, or completed at least 2 years in a <i>postsecondary vocational program</i> or a bachelor's degree program or higher degree program, or 2. served for <i>at least the period for which the applicant was obligated to serve on active duty</i> in the uniformed services or have been honorably discharged, or 3. been employed for periods totaling at least 3 years and worked <i>at least 80 percent</i> of the time with valid employment authorization (if the person was not working, they must show that they were enrolled in school or an education program). <p>A hardship exception may be available for people who do not meet at least some of the requirements above.</p> <p>If the applicant meets all the educational, employment, or military requirements at the time of submitting their first application for the USA Act, they will be granted LPR status.</p>
<p>Step 3: Becoming a U.S. citizen</p>	<p>May apply for U.S. citizenship after being in LPR status for 5 years, presumably.</p> <p>CPR (>8 years) → LPR (5 years) → Eligible for citizenship (total of about 13 years).</p>	

	Dream Act of 2017	United and Securing America Act of 2018 (USA Act)
Inadmissibility bars	Applicant must not be inadmissible under INA § 212(a)(2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D). These provisions of law bar people from being “admitted” or obtaining legalization if they have convictions for certain crimes or have engaged in certain types of behavior, such as drug or human trafficking.	
Criminal and behavioral bars	<p>Applicant must not 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.</p> <p>Applicant must not have been convicted of any state or federal offense (other than offenses due to immigration status) punishable by more than 1 year in prison, <i>or of 3 or more federal or state offenses, with convictions on different dates, and imprisonment for a total of 90 days or more.</i></p> <p>Expunged convictions will not automatically disqualify the applicant from eligibility for CPR status.</p> <p>Waivers for some of the grounds of inadmissibility may be available for humanitarian purposes, family unity, or if the waiver is otherwise in the public interest.</p> <p>Must pass a background check.</p>	<p>Applicant must not 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;</p> <p>Applicant must not have been convicted of any state or federal offense (other than offenses due to immigration status or a minor traffic offense) punishable by more than 1 year in prison; <i>of any combination of state or federal offenses for which the applicant was sentenced to imprisonment for a total of more than one year; or of a crime of domestic violence (unless the person has applied for a U visa, a T visa, cancellation of removal, employment authorization for battered spouses, TPS, or protection under the Violence Against Women Act (VAWA), or unless the person can show that their conviction is related to being a survivor of domestic violence, sexual abuse, or other specific crimes or that the person is a witness in a domestic violence-related case).</i></p> <p>Expunged, dismissed, deferred, annulled, invalidated, withheld, sealed, pardoned, and vacated convictions do not count as convictions that would disqualify a person. Orders of probation without entry of judgment or other rehabilitative relief also do not count as convictions.</p> <p>Waivers for some of the grounds inadmissibility may be available for humanitarian purposes, family unity, or if the waiver is otherwise in the public interest.</p> <p>Must pass a background check.</p>
Fees	Fees determined by the U.S. Department of Homeland Security, with fee exemption possibility for qualifying individuals.	
Fast track for DACA recipients?	Yes. DACA recipients automatically acquire CPR status, unless they have engaged in conduct that would otherwise make them ineligible for DACA.	
Confidentiality protections for information submitted?	Protects the confidentiality of information provided in applications for DACA and for immigration benefits under this bill.	

	Dream Act of 2017	United and Securing America Act of 2018 (USA Act)
Additional provisions or changes	<p>Repeals section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which currently discourages states from making undocumented students eligible for in-state tuition or providing them other higher education benefits.</p> <p>Early childhood education, elementary, and secondary school children at least 5 years of age shall be granted a stay of removal (not conditional permanent residency).</p>	

ABBREVIATIONS AND ACRONYMS

CPR – conditional permanent resident

DACA – Deferred Action for Childhood Arrivals

GED – General Educational Development

LPR – lawful permanent resident

TPS – temporary protected status

USA Act – United and Securing America Act of 2018

USCIS – U.S. Citizenship and Immigration Services

VAWA – Violence Against Women Act

NOTES

¹ People with final orders of removal may apply for immigration benefits under the Dream Act. The USA Act doesn't explicitly say this, but it could still be an option.

² A person breaks continuous presence if the person departs the U.S., without first obtaining advance parole from USCIS, for any one period exceeding 90 days or for any periods that in total exceed 180 days. A person may be excused for exceeding these time limits if the person is able to show that it was due to extenuating circumstances beyond the person's control.