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S. 3992, Development, Relief, and Education for Alien Minors (Dream) Act

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UPDATE

On December 16, Senator **Reid** filed cloture on the motion to concur in the House amendment to the Senate amendment to [H.R. 5281](#), the legislative vehicle for the *Development, Relief, and Education for Alien Minors (Dream) Act*. Senator **Reid** then filled the amendment tree. The Senate is scheduled to consider the legislation on Saturday, December 18.

H.R. 5281 includes the language in [H.R. 6497](#), the *Dream Act*, introduced by Representative Berman (D-CA) on December 7, 2010. On December 8, the House of Representatives passed **H.R. 5281** by a vote of 216 to 198 (Roll Call Vote [625](#)).

[S. 3992](#), the *Dream Act*, was introduced by Senators **Durbin** and **Leahy** on November 30, 2010. On December 9, a motion to table the motion to proceed to the bill was agreed to in the Senate by a vote of 59 to 40, after Senator **Reid** announced his intention to later proceed directly to the House bill.

The vote on the motion to concur in the House amendment to the Senate amendment to **H.R. 5281** is scheduled for Saturday, December 18, 2010.

There are two major provisions in **H.R. 5281** that are different from **S. 3992**:

1) **H.R. 5281** would split the 10-year conditional nonimmigrant status process into two five year periods. At the end of the first five years as a conditional nonimmigrant, an individual would be required to demonstrate that he or she had met the education or military requirement and remained in good standing. **If an individual does not meet these requirements in the first five years, he or she would lose conditional nonimmigrant status and be subject to deportation.** If an individual could show that these requirements had been met in the first five years, then he or she could reapply for the final five years of conditional nonimmigrant status. At the completion of this second five-year period, eligible individuals could apply for legal permanent resident (LPR) status. **S. 3992** would provide conditional nonimmigrant status for 10 years.

2) **H.R. 5281** would add fees for applicants. The legislation would require applicants to pay a surcharge of \$525 upon filing an initial application for conditional nonimmigrant status. An additional \$2,000 would be charged if an individual applies to extend his or her status. These additional fees could increase revenues by \$1.7 billion. **S. 3992** would not require these specific fees.

Summary

There are hundreds of thousands of immigrants who were brought to the United States by their family at an early age and remain undocumented. For most, the United States is the only country they have ever known. Many of these individuals are at risk of being punished because they do not have the proper documentation, even though they were brought here through no fault of their own.

These young adults are unable to join the military and some are unable to attend college because of their immigration status. This uncertainty limits the contributions of immigrant students. Providing a path to legal status for these young adults would encourage them to reach their full potential and contribute more fully to the United States.

The *Development, Relief, and Education for Alien Minors (Dream) Act*, **S. 3992**, reflects a commitment to fix our broken immigration system and give promising young adults a chance to earn legal status. This targeted legislation would provide a defined population of immigrant students with the chance to earn legal status if they meet rigorous requirements through a two-step, ten-year process.

The *Act* would provide conditional nonimmigrant status to individuals who meet the following criteria: 1) came to the United States as a child; 2) lived continuously in the United States for more than five years; 3) exhibit good moral character; 4) has not engaged in criminal activity (as defined by immigration laws); 5) does not pose a threat to national security; 6) passes a background check; and 7) graduates from an American high school. If these criteria are met, the individual would receive conditional nonimmigrant status.

The individual would then be required to complete two years of college or military service and remain in good standing. After 10 years, the student would be permitted to apply for permanent legal status. Legal status would only be granted to those who meet the specific requirements. It is estimated that each year approximately 65,000 students might benefit from the chance to earn legal status.

On November 30, Senators **Durbin** and **Leahy** introduced **S. 3992**, the *Dream Act*. Senator **Reid** filed cloture on the motion to proceed to the bill on December 6. A cloture vote on the motion to proceed to **S. 3992** is expected later this week.

Major Provisions

Cancellation of Removal

The legislation would permit the Secretary of Homeland Security to cancel the removal of an undocumented immigrant and grant the undocumented immigrant conditional nonimmigrant status. An applicant would be required to demonstrate the following by a preponderance of the evidence:

- continuous presence in the United States for the past five years;

- younger than 16 years of age when s/he entered the United States;
- is a person of good moral character since the initial date of entry into the United States;
- has not abused a student visa;
- has not committed marriage fraud;
- has not engaged in voter fraud or unlawful voting;
- is not likely to become a public charge;
- does not pose a public health risk;
- has not engaged in persecution;
- has not committed a felony or three misdemeanors;
- has either been admitted to an institution of higher education in the United States, graduated from an American high school or obtained a general education development certificate (GED); and
- is younger than 30 years of age on the date of enactment of the legislation.

The legislation would require individuals to submit an application for cancellation of removal and conditional nonimmigrant status within one year of the later of the following:

- the date the individual was admitted to an institution of higher education in the United States;
- the date the individual earned a high school diploma or GED; or
- the date of the enactment of the legislation.

The *Act* would require applicants to submit biometric and biographic information. Applicants would also be required to undergo a medical examination. The Secretary of Homeland Security would be required to perform background checks on applicants. Applicants would be required to register for the Selective Service, if appropriate.

Conditional Nonimmigrant Status

The measure would limit eligibility for conditional nonimmigrant status to 10 years. A conditional nonimmigrant would be permitted to work in the United States and travel outside of the United States for a limited time. The Secretary of Homeland Security would be authorized to terminate the conditional nonimmigrant status if the individual engaged in criminal activity, became a public charge, or received a dishonorable discharge from the military.

Under the legislation, if an individual lost their conditional nonimmigrant status, the individual would return to the individual's prior immigration status.

Adjustment of Status

The legislation would provide a conditional nonimmigrant the opportunity to earn legal permanent resident status (LPR). The conditional nonimmigrant would be eligible to file an application to adjust their status 10 years after receiving conditional nonimmigrant status. The conditional immigrant would have to meet the following requirements:

- demonstrate good moral character during the entire period as a conditional nonimmigrant;
- maintain residence in the United States;
- complete at least 2 years of college or has served in the military for at least two years;
- demonstrate the ability to read, write and speak English;
- demonstrate knowledge and understanding of the fundamentals of the history, principles, and form of government of the United States;
- pay back taxes; and
- submit biometric and biographic information and undergo background checks.

Other Provisions

The legislation maintains the ban on in-state tuition for undocumented immigrants. The legislation prohibits Dream Act applicants who adjust to LPR status from receiving Pell Grants and other federal education grants.

The measure would require the Department of Homeland Security or the Department of Justice to share information about Dream Act students collected in the application process for legal immigrant status with any federal, state, tribal, or local law enforcement agency, intelligence or national security agency or court for homeland security or national security purposes.

The legislation would exclude conditional nonimmigrants from participating in the health insurance exchanges created by the *Affordable Care Act*. These individuals would also be ineligible to receive Medicaid, food stamps and other government programs.

The Government Accountability Office would be required to submit a report to Congress within seven years of the enactment of the *Act*.

Legislative History

Senators **Durbin** and **Leahy** introduced **S. 3992**, the *Dream Act*, on November 30. On December 1, **S. 3992** was placed on the Senate Legislative Calendar.

The Senate previously voted on a version of the *Dream Act* in the 110th Congress. In October 2007, the Senate voted on the motion to invoke cloture on the motion to proceed to **S. 2205**, sponsored by Senator **Durbin**. The motion failed by a vote of 52 to 44.

Senator **Reid** filed cloture on the motion to proceed to **S. 3992** on December 6, 2010. The vote on cloture on the motion to proceed to **S. 3992** is expected this week.

Expected Amendments

The DPC will circulate information about possible amendments as it becomes available.

Administration Position

At the time of publication, the Administration had not released a Statement of Administration policy on **S. 3992**.

Resources

Congressional Research Service, “Unauthorized Alien Students: Issues and “DREAM Act” Legislation, available [here](#).

Congressional Research Service, “Unauthorized Alien Students, Higher Education, and In-State Tuition Rates: A Legal Analysis,” available [here](#).