

Calendar No. 431110TH CONGRESS
1ST SESSION**S. 2205**

To authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 2007

Mr. DURBIN (for himself, Mr. HAGEL, and Mr. LUGAR) introduced the following bill; which was read the first time

OCTOBER 19, 2007

Read the second time and placed on the calendar

A BILL

To authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Development, Relief,
3 and Education for Alien Minors Act of 2007” or the
4 “DREAM Act of 2007”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **INSTITUTION OF HIGHER EDUCATION.**—The
8 term “institution of higher education” has the
9 meaning given that term in section 101 of the High-
10 er Education Act of 1965 (20 U.S.C. 1001).

11 (2) **SECRETARY.**—The term “Secretary” means
12 the Secretary of Homeland Security.

13 (3) **UNIFORMED SERVICES.**—The term “uni-
14 formed services” has the meaning given that term in
15 section 101(a) of title 10, United States Code.

16 **SEC. 3. CANCELLATION OF REMOVAL AND ADJUSTMENT OF**
17 **STATUS OF CERTAIN LONG-TERM RESIDENTS**
18 **WHO ENTERED THE UNITED STATES AS CHIL-**
19 **DREN.**

20 (a) **SPECIAL RULE FOR CERTAIN LONG-TERM RESI-**
21 **DENTS WHO ENTERED THE UNITED STATES AS CHIL-**
22 **DREN.**—

23 (1) **IN GENERAL.**—Notwithstanding any other
24 provision of law and except as otherwise provided in
25 this Act, the Secretary may cancel removal of, and
26 adjust to the status of an alien lawfully admitted for

1 permanent residence, subject to the conditional basis
2 described in section 4, an alien who is inadmissible
3 or deportable from the United States, if the alien
4 demonstrates that—

5 (A) the alien has been physically present in
6 the United States for a continuous period of
7 not less than 5 years immediately preceding the
8 date of enactment of this Act, and had not yet
9 reached the age of 16 years at the time of ini-
10 tial entry;

11 (B) the alien has been a person of good
12 moral character since the date of enactment of
13 this Act;

14 (C) the alien—

15 (i) is not inadmissible under para-
16 graph (2), paragraph (3), subparagraph
17 (B), (C), (E), (F), or (G) of paragraph
18 (6), or subsection (C) of paragraph (10) of
19 section 212(a) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1182(a)), except
21 that if the alien is inadmissible solely
22 under subparagraph (C) or (F) of para-
23 graph (6) of such section, the alien had
24 not yet reached the age of 16 years at the
25 time the violation was committed; and

1 (ii) is not deportable under subpara-
2 graph (E) or (G) of paragraph (1), para-
3 graph (2), subparagraph (B), (C), or (D)
4 of paragraph (3), paragraph (4), or para-
5 graph (6) of section 237(a) of the Immi-
6 gration and Nationality Act (8 U.S.C.
7 1227(a)), except that if the alien is deport-
8 able solely under subparagraph (C) or (D)
9 of paragraph (3) of such section, the alien
10 had not yet reached the age of 16 years at
11 the time the violation was committed;

12 (D) the alien, at the time of application,
13 has been admitted to an institution of higher
14 education in the United States, or has earned
15 a high school diploma or obtained a general
16 education development certificate in the United
17 States;

18 (E) the alien has never been under a final
19 administrative or judicial order of exclusion, de-
20 portation, or removal, unless the alien—

21 (i) has remained in the United States
22 under color of law after such order was
23 issued; or

24 (ii) received the order before attaining
25 the age of 16 years; and

1 (F) the alien was had not yet reached the
2 age of 30 years on the date of enactment of this
3 Act.

4 (2) WAIVER.—Notwithstanding paragraph (1),
5 the Secretary of Homeland Security may waive the
6 ground of ineligibility under section 212(a)(6) of the
7 Immigration and Nationality Act and the ground of
8 deportability under paragraphs (1), (3), and (6) of
9 section 237(a) of that Act for humanitarian pur-
10 poses or family unity or when it is otherwise in the
11 public interest.

12 (3) PROCEDURES.—The Secretary shall provide
13 a procedure by regulation allowing eligible individ-
14 uals to apply affirmatively for the relief available
15 under this subsection without being placed in re-
16 moval proceedings.

17 (b) TERMINATION OF CONTINUOUS PERIOD.—For
18 purposes of this section, any period of continuous resi-
19 dence or continuous physical presence in the United States
20 of an alien who applies for cancellation of removal under
21 this section shall not terminate when the alien is served
22 a notice to appear under section 239(a) of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1229(a)).

24 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
25 ENCE.—

1 (1) IN GENERAL.—An alien shall be considered
2 to have failed to maintain continuous physical pres-
3 ence in the United States under subsection (a) if the
4 alien has departed from the United States for any
5 period in excess of 90 days or for any periods in the
6 aggregate exceeding 180 days.

7 (2) EXTENSIONS FOR EXCEPTIONAL CIR-
8 CUMSTANCES.—The Secretary may extend the time
9 periods described in paragraph (1) if the alien dem-
10 onstrates that the failure to timely return to the
11 United States was due to exceptional circumstances.
12 The exceptional circumstances determined sufficient
13 to justify such an extension shall be no less compel-
14 ling than serious illness of the alien, or death or se-
15 rious illness of a parent, grandparent, sibling, or
16 child of the alien.

17 (d) EXEMPTION FROM NUMERICAL LIMITATIONS.—
18 Nothing in this section may be construed to apply a nu-
19 merical limitation on the number of aliens who may be
20 eligible for cancellation of removal or adjustment of status
21 under this section.

22 (e) REGULATIONS.—

23 (1) PROPOSED REGULATIONS.—Not later than
24 180 days after the date of enactment of this Act, the
25 Secretary shall publish proposed regulations imple-

1 menting this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

2 (2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

10 **SEC. 4. CONDITIONAL PERMANENT RESIDENT STATUS.**

11 (a) IN GENERAL.—

12 (1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 5, an alien whose status has been adjusted under section 3 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

22 (2) NOTICE OF REQUIREMENTS.—

23 (A) AT TIME OF OBTAINING PERMANENT
24 RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis

1 under paragraph (1), the Secretary shall pro-
2 vide for notice to the alien regarding the provi-
3 sions of this section and the requirements of
4 subsection (c) to have the conditional basis of
5 such status removed.

6 (B) EFFECT OF FAILURE TO PROVIDE NO-
7 TICE.—The failure of the Secretary to provide
8 a notice under this paragraph—

9 (i) shall not affect the enforcement of
10 the provisions of this Act with respect to
11 the alien; and

12 (ii) shall not give rise to any private
13 right of action by the alien.

14 (3) LIMITATION ON REMOVAL.—The Secretary
15 may not remove an alien who has a pending applica-
16 tion for conditional permanent resident status under
17 this section.

18 (b) TERMINATION OF STATUS.—

19 (1) IN GENERAL.—The Secretary shall termi-
20 nate the conditional permanent resident status of
21 any alien who obtained such status under this Act,
22 if the Secretary determines that the alien—

23 (A) ceases to meet the requirements of
24 subparagraph (B) or (C) of section 3(a)(1);

25 (B) has become a public charge; or

1 (C) has received a dishonorable or other
2 than honorable discharge from the uniformed
3 services.

4 (2) RETURN TO PREVIOUS IMMIGRATION STA-
5 TUS.—Any alien whose conditional permanent resi-
6 dent status is terminated under paragraph (1) shall
7 return to the immigration status the alien had im-
8 mediately prior to receiving conditional permanent
9 resident status under this Act.

10 (c) REQUIREMENTS OF TIMELY PETITION FOR RE-
11 MOVAL OF CONDITION.—

12 (1) IN GENERAL.—In order for the conditional
13 basis of permanent resident status obtained by an
14 alien under subsection (a) to be removed, the alien
15 must file with the Secretary, in accordance with
16 paragraph (3), a petition which requests the removal
17 of such conditional basis and which provides, under
18 penalty of perjury, the facts and information so that
19 the Secretary may make the determination described
20 in paragraph (2)(A).

21 (2) ADJUDICATION OF PETITION TO REMOVE
22 CONDITION.—

23 (A) IN GENERAL.—If a petition is filed in
24 accordance with paragraph (1) for an alien, the
25 Secretary shall make a determination as to

1 whether the alien meets the requirements set
2 out in subparagraphs (A) through (E) of sub-
3 section (d)(1).

4 (B) REMOVAL OF CONDITIONAL BASIS IF
5 FAVORABLE DETERMINATION.—If the Secretary
6 determines that the alien meets such require-
7 ments, the Secretary shall notify the alien of
8 such determination and immediately remove the
9 conditional basis of the status of the alien.

10 (C) TERMINATION IF ADVERSE DETER-
11 MINATION.—If the Secretary determines that
12 the alien does not meet such requirements, the
13 Secretary shall notify the alien of such deter-
14 mination and terminate the conditional perma-
15 nent resident status of the alien as of the date
16 of the determination.

17 (3) TIME TO FILE PETITION.—An alien may pe-
18 tition to remove the conditional basis to lawful resi-
19 dent status during the period beginning 180 days
20 before and ending 2 years after either the date that
21 is 6 years after the date of the granting of condi-
22 tional permanent resident status or any other expi-
23 ration date of the conditional permanent resident
24 status as extended by the Secretary in accordance
25 with this Act. The alien shall be deemed in condi-

1 tional permanent resident status in the United
2 States during the period in which the petition is
3 pending.

4 (d) DETAILS OF PETITION.—

5 (1) CONTENTS OF PETITION.—Each petition
6 for an alien under subsection (c)(1) shall contain in-
7 formation to permit the Secretary to determine
8 whether each of the following requirements is met:

9 (A) The alien has demonstrated good
10 moral character during the entire period the
11 alien has been a conditional permanent resi-
12 dent.

13 (B) The alien is in compliance with section
14 3(a)(1)(C).

15 (C) The alien has not abandoned the
16 alien's residence in the United States. The Sec-
17 retary shall presume that the alien has aban-
18 doned such residence if the alien is absent from
19 the United States for more than 365 days, in
20 the aggregate, during the period of conditional
21 residence, unless the alien demonstrates that
22 alien has not abandoned the alien's residence.
23 An alien who is absent from the United States
24 due to active service in the uniformed services

1 has not abandoned the alien's residence in the
2 United States during the period of such service.

3 (D) The alien has completed at least 1 of
4 the following:

5 (i) The alien has acquired a degree
6 from an institution of higher education in
7 the United States or has completed at
8 least 2 years, in good standing, in a pro-
9 gram for a bachelor's degree or higher de-
10 gree in the United States.

11 (ii) The alien has served in the uni-
12 formed services for at least 2 years and, if
13 discharged, has received an honorable dis-
14 charge.

15 (E) The alien has provided a list of each
16 secondary school (as that term is defined in sec-
17 tion 9101 of the Elementary and Secondary
18 Education Act of 1965 (20 U.S.C. 7801)) that
19 the alien attended in the United States.

20 (2) HARDSHIP EXCEPTION.—

21 (A) IN GENERAL.—The Secretary may, in
22 the Secretary's discretion, remove the condi-
23 tional status of an alien if the alien—

1 (i) satisfies the requirements of sub-
2 paragraphs (A), (B), and (C) of paragraph
3 (1);

4 (ii) demonstrates compelling cir-
5 cumstances for the inability to complete
6 the requirements described in subpara-
7 graph (D) of such paragraph; and

8 (iii) demonstrates that the alien's re-
9 moval from the United States would result
10 in exceptional and extremely unusual hard-
11 ship to the alien or the alien's spouse, par-
12 ent, or child who is a citizen or a lawful
13 permanent resident of the United States.

14 (B) EXTENSION.—Upon a showing of good
15 cause, the Secretary may extend the period of
16 conditional resident status for the purpose of
17 completing the requirements described in sub-
18 paragraph (D) of paragraph (1).

19 (e) TREATMENT OF PERIOD FOR PURPOSES OF NAT-
20 URALIZATION.—For purposes of title III of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1401 et seq.), in the
22 case of an alien who is in the United States as a lawful
23 permanent resident on a conditional basis under this sec-
24 tion, the alien shall be considered to have been admitted
25 as an alien lawfully admitted for permanent residence and

1 to be in the United States as an alien lawfully admitted
2 to the United States for permanent residence. However,
3 the conditional basis must be removed before the alien
4 may apply for naturalization.

5 **SEC. 5. TREATMENT OF CERTAIN APPLICANTS.**

6 If, on the date of enactment of this Act, an alien has
7 satisfied all the requirements of subparagraphs (A)
8 through (F) of section 3(a)(1) and subparagraph (D) of
9 section 4(d)(1), the Secretary may adjust the status of the
10 alien to that of a conditional resident in accordance with
11 section 3. The alien may petition for removal of such con-
12 dition at the end of the conditional residence period in ac-
13 cordance with section 4(c) if the alien has met the require-
14 ments of subparagraphs (A), (B), and (C) of section
15 4(d)(1) during the entire period of conditional residence.

16 **SEC. 6. EXCLUSIVE JURISDICTION.**

17 (a) SECRETARY.—Except as provided in subsection
18 (b), the Secretary shall have exclusive jurisdiction to deter-
19 mine eligibility for relief under this Act.

20 (b) ATTORNEY GENERAL.—Notwithstanding sub-
21 section (a), if an alien has been placed into deportation,
22 exclusion, or removal proceedings either prior to or after
23 filing an application for relief under this Act, the Attorney
24 General shall have exclusive jurisdiction and shall assume
25 all the powers and duties of the Secretary under this Act

1 until proceedings are terminated. If a final order of depor-
2 tation, exclusion, or removal is entered for the alien the
3 Secretary shall resume all powers and duties under this
4 Act with respect to the alien.

5 **SEC. 7. STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED**
6 **IN PRIMARY OR SECONDARY SCHOOL.**

7 (a) **STAY OF REMOVAL.**—The Attorney General shall
8 stay the removal proceedings of any alien who—

9 (1) meets all the requirements of subpara-
10 graphs (A), (B), (C), (E), and (F) of section
11 3(a)(1);

12 (2) is at least 12 years of age; and

13 (3) is enrolled full time in a primary or sec-
14 ondary school.

15 (b) **EMPLOYMENT.**—An alien whose removal is stayed
16 pursuant to subsection (a) may be engaged in employment
17 in the United States consistent with the Fair Labor
18 Standards Act (29 U.S.C. 201 et seq.) and State and local
19 laws governing minimum age for employment.

20 (c) **LIFT OF STAY.**—The Attorney General shall lift
21 the stay granted pursuant to subsection (a) if the alien—

22 (1) is no longer enrolled in a primary or sec-
23 ondary school; or

24 (2) ceases to meet the requirements of sub-
25 section (a)(1).

1 **SEC. 8. PENALTIES FOR FALSE STATEMENTS IN APPLICA-**
2 **TION.**

3 Whoever files an application for relief under this Act
4 and willfully and knowingly falsifies, misrepresents, or
5 conceals a material fact or makes any false or fraudulent
6 statement or representation, or makes or uses any false
7 writing or document knowing the same to contain any
8 false or fraudulent statement or entry, shall be fined in
9 accordance with title 18, United States Code, or impris-
10 oned not more than 5 years, or both.

11 **SEC. 9. CONFIDENTIALITY OF INFORMATION.**

12 (a) PROHIBITION.—Except as provided in subsection
13 (b), no officer or employee of the United States may—

14 (1) use the information furnished by the appli-
15 cant pursuant to an application filed under this Act
16 to initiate removal proceedings against any persons
17 identified in the application;

18 (2) make any publication whereby the informa-
19 tion furnished by any particular individual pursuant
20 to an application under this Act can be identified; or

21 (3) permit anyone other than an officer or em-
22 ployee of the United States to examine applications
23 filed under this Act.

24 (b) REQUIRED DISCLOSURE.—The Attorney General
25 or the Secretary shall provide the information furnished

1 under this section, and any other information derived from
2 such furnished information, to—

3 (1) a duly recognized law enforcement entity in
4 connection with an investigation or prosecution of an
5 offense described in paragraph (2) or (3) of section
6 212(a) of the Immigration and Nationality Act (8
7 U.S.C. 1182(a)), when such information is requested
8 in writing by such entity; or

9 (2) an official coroner for purposes of affirma-
10 tively identifying a deceased individual (whether or
11 not such individual is deceased as a result of a
12 crime).

13 (c) PENALTY.—Whoever knowingly uses, publishes,
14 or permits information to be examined in violation of this
15 section shall be fined not more than \$10,000.

16 **SEC. 10. HIGHER EDUCATION ASSISTANCE.**

17 Notwithstanding any provision of the Higher Edu-
18 cation Act of 1965 (20 U.S.C. 1001 et seq.), with respect
19 to assistance provided under title IV of the Higher Edu-
20 cation Act of 1965 (20 U.S.C. 1070 et seq.), an alien who
21 adjusts status to that of a lawful permanent resident
22 under this Act shall be eligible only for the following as-
23 sistance under such title:

1 (1) Student loans under parts B, D, and E of
2 such title IV, subject to the requirements of such
3 parts.

4 (2) Federal work-study programs under part C
5 of such title IV, subject to the requirements of such
6 part.

7 (3) Services under such title IV, subject to the
8 requirements for such services.

9 **SEC. 11. GAO REPORT.**

10 Not later than 7 years after the date of enactment
11 of this Act, the Comptroller General of the United States
12 shall submit a report to the Committee on the Judiciary
13 of the Senate and the Committee on the Judiciary of the
14 House of Representatives setting forth—

15 (1) the number of aliens who were eligible for
16 cancellation of removal and adjustment of status
17 under section 3(a);

18 (2) the number of aliens who applied for adjust-
19 ment of status under section 3(a);

20 (3) the number of aliens who were granted ad-
21 justment of status under section 3(a); and

22 (4) the number of aliens whose conditional per-
23 manent resident status was removed under section
24 4.

Calendar No. 431

110TH CONGRESS
1ST Session

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