

112TH CONGRESS
1ST SESSION

H. R. 1842

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 HOUSE OF REPRESENTATIVES

MAY 11, 2011

Mr. BERMAN (for himself, Ms. ROS-LEHTINEN, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Development, Relief,
5 and Education for Alien Minors Act of 2011” or the
6 “DREAM Act of 2011”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) IN GENERAL.—Except as otherwise specifi-
4 cally provided, a term used in this Act that is used
5 in the immigration laws shall have the meaning
6 given such term in the immigration laws.

7 (2) IMMIGRATION LAWS.—The term “immigra-
8 tion laws” has the meaning given such term in sec-
9 tion 101(a)(17) of the Immigration and Nationality
10 Act (8 U.S.C. 1101(a)(17)).

11 (3) INSTITUTION OF HIGHER EDUCATION.—The
12 term “institution of higher education” has the
13 meaning given that term in section 102 of the High-
14 er Education Act of 1965 (20 U.S.C. 1002).

15 (4) SECRETARY.—Except as otherwise specifi-
16 cally provided, the term “Secretary” means the Sec-
17 retary of Homeland Security.

18 (5) UNIFORMED SERVICES.—The term “uni-
19 formed services” has the meaning given that term in
20 section 101(a) of title 10, United States Code.

21 **SEC. 3. CONDITIONAL PERMANENT RESIDENT FOR CER-**
22 **TAIN LONG-TERM RESIDENTS WHO ENTERED**
23 **THE UNITED STATES AS CHILDREN.**

24 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-
25 DENTS WHO ENTERED THE UNITED STATES AS CHIL-
26 DREN.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law and except as otherwise provided in
3 this Act, the Secretary may cancel removal of, and
4 adjust to the status of an alien lawfully admitted for
5 permanent residence on a conditional basis, an alien
6 who is inadmissible or deportable from the United
7 States if the alien demonstrates by a preponderance
8 of the evidence that—

9 (A) the alien has been physically present in
10 the United States for a continuous period of
11 not less than 5 years before the date of the en-
12 actment of this Act, and was 15 years of age
13 or younger on the date the alien initially en-
14 tered the United States;

15 (B) the alien has been a person of good
16 moral character since the date the alien initially
17 entered the United States;

18 (C) subject to paragraph (2), the alien is
19 not inadmissible under paragraph (2), (3), (4),
20 (6)(E), (6)(G), (8), or subparagraph (A), (C),
21 or (D) of paragraph (10), of section 212(a) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1182(a));

24 (D) the alien has been admitted to an in-
25 stitution of higher education in the United

1 States, or has earned a high school diploma or
2 obtained a general education development cer-
3 tificate in the United States; and

4 (E) the alien was 32 years of age or
5 younger on the date of the enactment of this
6 Act.

7 (2) WAIVER.—With respect to any benefit
8 under this Act, the Secretary may waive the grounds
9 of ineligibility under section 212(a)(2) of the Immi-
10 gration and Nationality Act, for humanitarian pur-
11 poses, for purposes of family unity, or when it is
12 otherwise in the public interest.

13 (3) SUBMISSION OF BIOMETRIC AND BIO-
14 GRAPHIC DATA.—The Secretary may not grant per-
15 manent resident status on a conditional basis to an
16 alien under this section unless the alien submits bio-
17 metric and biographic data, in accordance with pro-
18 cedures established by the Secretary. The Secretary
19 shall provide an alternative procedure for applicants
20 who are unable to provide such biometric or bio-
21 graphic data because of a physical impairment.

22 (4) BACKGROUND CHECKS.—

23 (A) REQUIREMENT FOR BACKGROUND
24 CHECKS.—The Secretary shall utilize biometric,

1 biographic, and other data that the Secretary
2 determines is appropriate—

3 (i) to conduct security and law en-
4 forcement background checks of an alien
5 seeking permanent resident status on a
6 conditional basis under this section; and

7 (ii) to determine whether there is any
8 criminal, national security, or other factor
9 that would render the alien ineligible for
10 such status.

11 (B) COMPLETION OF BACKGROUND
12 CHECKS.—The security and law enforcement
13 background checks required by subparagraph
14 (A) for an alien shall be completed, to the satis-
15 faction of the Secretary, prior to the date the
16 Secretary grants permanent resident status on
17 a conditional basis to the alien.

18 (5) MEDICAL EXAMINATION.—An alien applying
19 for permanent resident status on a conditional basis
20 under this section shall undergo a medical examina-
21 tion. The Secretary, with the concurrence of the Sec-
22 retary of Health and Human Services, shall pre-
23 scribe policies and procedures for the nature and
24 timing of such examination.

1 (6) MILITARY SELECTIVE SERVICE.—An alien
2 applying for permanent resident status on a condi-
3 tional basis under this section shall establish that
4 the alien has registered under the Military Selective
5 Service Act (50 U.S.C. App. 451 et seq.), if the
6 alien is subject to such registration under that Act.

7 (b) TERMINATION OF CONTINUOUS PERIOD.—Any
8 period of continuous residence or continuous physical
9 presence in the United States of an alien who applies for
10 permanent resident status on a conditional basis under
11 this section shall not terminate when the alien is served
12 a notice to appear under section 239(a) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1229(a)).

14 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
15 ENCE.—

16 (1) IN GENERAL.—An alien shall not be consid-
17 ered to have failed to maintain continuous physical
18 presence in the United States for purposes of sub-
19 section (a)(1)(A) by virtue of brief, casual, and inno-
20 cent absences from the United States.

21 (2) WAIVER.—The Secretary of Homeland Se-
22 curity may waive breaks in presence beyond brief,
23 casual, or innocent absences for humanitarian pur-
24 poses, family unity, or when it is otherwise in the
25 public interest.

1 (d) EXEMPTION FROM NUMERICAL LIMITATIONS.—
2 Nothing in this section may be construed to apply a nu-
3 merical limitation on the number of aliens who may be
4 eligible for cancellation of removal or adjustment of status
5 under this section.

6 (e) APPLICATION.—

7 (1) IN GENERAL.—An alien seeking lawful per-
8 manent resident status on a conditional basis shall
9 file an application for such status in such manner as
10 the Secretary may require.

11 (2) DEADLINE FOR SUBMISSION OF APPLICA-
12 TION.—An alien shall submit an application for re-
13 lief under this section not later than the date that
14 is 1 year after the later of—

15 (A) the date the alien earned a high school
16 diploma or obtained a general education devel-
17 opment certificate in the United States; or

18 (B) the effective date of the final regula-
19 tions issued pursuant to section 7.

20 (f) LIMITATION ON REMOVAL OF CERTAIN
21 ALIENS.—

22 (1) IN GENERAL.—The Secretary or the Attor-
23 ney General may not remove an alien who—

24 (A) has a pending application for relief
25 under this section; and

1 (B) establishes prima facie eligibility for
2 relief under this section.

3 (2) CERTAIN ALIENS ENROLLED IN PRIMARY
4 OR SECONDARY SCHOOL.—

5 (A) STAY OF REMOVAL.—The Attorney
6 General shall stay the removal proceedings of
7 an alien who—

8 (i) meets all the requirements of sub-
9 paragraphs (A), (B), (C), and (E) of sub-
10 section (a)(1);

11 (ii) is at least 12 years of age; and

12 (iii) is enrolled full-time in a primary
13 or secondary school.

14 (B) ALIENS NOT IN REMOVAL PRO-
15 CEEDINGS.—If an alien is not in removal pro-
16 ceedings, the Secretary shall not commence
17 such proceedings with respect to the alien if the
18 alien is described in clauses (i) through (iii) of
19 subparagraph (A).

20 (C) EMPLOYMENT.—An alien whose re-
21 moval is stayed pursuant to subparagraph (A)
22 or who may not be placed in removal pro-
23 ceedings pursuant to subparagraph (B) shall,
24 upon application to the Secretary, be granted
25 an employment authorization document.

1 (D) LIFT OF STAY.—The Secretary or At-
2 torney General may lift the stay granted to an
3 alien under subparagraph (A) if the alien—

4 (i) is no longer enrolled in a primary
5 or secondary school; or

6 (ii) ceases to meet the requirements of
7 such paragraph.

8 **SEC. 4. TERMS OF CONDITIONAL PERMANENT RESIDENT**
9 **STATUS.**

10 (a) IN GENERAL.—

11 (1) CONDITIONAL BASIS FOR STATUS.—Not-
12 withstanding any other provision of law, an alien
13 whose status has been adjusted under section 3 to
14 that of an alien lawfully admitted for permanent res-
15 idence shall be considered to have obtained such sta-
16 tus on a conditional basis subject to the provisions
17 of this section. Such conditional permanent resident
18 status shall be valid for a period of 6 years, subject
19 to termination under subsection (b).

20 (2) NOTICE OF REQUIREMENTS.—

21 (A) AT TIME OF OBTAINING PERMANENT
22 RESIDENCE.—At the time an alien obtains per-
23 manent resident status on a conditional basis
24 under this Act, the Secretary of Homeland Se-
25 curity shall provide for notice to the alien re-

1 garding the provisions of this section and the
2 requirements to have the conditional basis of
3 such status removed.

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

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

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

12 (b) TERMINATION OF STATUS.—

13 (1) IN GENERAL.—The Secretary of Homeland
14 Security shall terminate the conditional permanent
15 resident status of any alien who obtained such sta-
16 tus under this Act, if the Secretary determines that
17 the alien—

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

20 (B) has received a dishonorable or other
21 than honorable discharge from the uniformed
22 services.

23 (2) RETURN TO PREVIOUS IMMIGRATION STA-
24 TUS.—Any alien whose conditional permanent resi-
25 dent status is terminated under paragraph (1) shall

1 return to the immigration status the alien had im-
2 mediately prior to receiving conditional permanent
3 resident status under this Act.

4 (c) INFORMATION SYSTEMS.—The Secretary shall
5 use the information systems of the Department of Home-
6 land Security to maintain current information on the iden-
7 tity, address, and immigration status of aliens granted
8 permanent resident status on a conditional basis under
9 this Act.

10 **SEC. 5. REMOVAL OF CONDITIONAL BASIS OF PERMANENT**
11 **RESIDENT STATUS.**

12 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
13 BASIS.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 the Secretary may remove the conditional basis of an
16 alien’s permanent resident status granted under this
17 Act if the alien demonstrates by a preponderance of
18 the evidence that—

19 (A) the alien has been a person of good
20 moral character during the entire period of con-
21 ditional permanent resident status;

22 (B) the alien is described in section
23 3(a)(1)(C);

24 (C) the alien has not abandoned the alien’s
25 residence in the United States;

1 (D) the alien—

2 (i) has acquired a degree from an in-
3 stitution of higher education in the United
4 States or has completed at least 2 years, in
5 good standing, in a program for a bach-
6 elor's degree or higher degree in the
7 United States; or

8 (ii) has served in the Uniformed Serv-
9 ices for at least 2 years and, if discharged,
10 received an honorable discharge; and

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

16 (2) HARDSHIP EXCEPTION.—

17 (A) IN GENERAL.—The Secretary may, in
18 the Secretary's discretion, remove the condi-
19 tional basis of an alien's permanent resident
20 status if the alien—

21 (i) satisfies the requirements of sub-
22 paragraphs (A), (B), (C), and (E) of para-
23 graph (1);

24 (ii) demonstrates compelling cir-
25 cumstances for the inability to satisfy the

1 requirements of subparagraph (D) of such
2 paragraph; and

3 (iii) demonstrates that the alien's re-
4 moval from the United States would result
5 in extreme hardship to the alien or the
6 alien's spouse, parent, or child who is a cit-
7 izen or a lawful permanent resident of the
8 United States.

9 (B) EXTENSION.—Upon a showing of good
10 cause, the Secretary may extend the period of
11 permanent resident status on a conditional
12 basis for an alien so that the alien may com-
13 plete the requirements of subparagraph (D) of
14 paragraph (1).

15 (3) TREATMENT OF ABANDONMENT OR RESI-
16 DENCE.—For purposes of paragraph (1)(C), an
17 alien—

18 (A) shall be presumed to have abandoned
19 the alien's residence in the United States if the
20 alien is absent from the United States for more
21 than 365 days, in the aggregate, during the
22 alien's period of conditional permanent resident
23 status, unless the alien demonstrates to the sat-
24 isfaction of the Secretary that the alien has not
25 abandoned such residence; and

1 (B) who is absent from the United States
2 due to active service in the Uniformed Services
3 has not abandoned the alien's residence in the
4 United States during the period of such service.

5 (4) CITIZENSHIP REQUIREMENT.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the conditional basis of an
8 alien's permanent resident status may not be
9 removed unless the alien demonstrates that the
10 alien satisfies the requirements of section
11 312(a) of the Immigration and Nationality Act
12 (8 U.S.C. 1423(a)).

13 (B) EXCEPTION.—Subparagraph (A) shall
14 not apply to an alien who is unable because of
15 a physical or developmental disability or mental
16 impairment to meet the requirements of such
17 subparagraph.

18 (5) SUBMISSION OF BIOMETRIC AND BIO-
19 GRAPHIC DATA.—The Secretary may not remove the
20 conditional basis of an alien's permanent resident
21 status unless the alien submits biometric and bio-
22 graphic data, in accordance with procedures estab-
23 lished by the Secretary. The Secretary shall provide
24 an alternative procedure for applicants who are un-

1 able to provide such biometric data because of a
2 physical impairment.

3 (6) BACKGROUND CHECKS.—

4 (A) REQUIREMENT FOR BACKGROUND
5 CHECKS.—The Secretary shall utilize biometric,
6 biographic, and other data that the Secretary
7 determines appropriate—

8 (i) to conduct security and law en-
9 forcement background checks of an alien
10 applying for removal of the conditional
11 basis of the alien’s permanent resident sta-
12 tus; and

13 (ii) to determine whether there is any
14 criminal, national security, or other factor
15 that would render the alien ineligible for
16 removal of such conditional basis.

17 (B) COMPLETION OF BACKGROUND
18 CHECKS.—The security and law enforcement
19 background checks required by subparagraph
20 (A) for an alien shall be completed, to the satis-
21 faction of the Secretary, prior to the date the
22 Secretary removes the conditional basis of the
23 alien’s permanent resident status.

24 (b) APPLICATION TO REMOVE CONDITIONAL
25 BASIS.—

1 (1) IN GENERAL.—An alien seeking to have the
2 conditional basis of the alien’s lawful permanent
3 resident status removed shall file an application for
4 such removal in such manner as the Secretary may
5 require.

6 (2) DEADLINE FOR SUBMISSION OF APPLICA-
7 TION.—

8 (A) IN GENERAL.—An alien shall file an
9 application under this subsection during the pe-
10 riod beginning 6 months prior to and ending on
11 the date that is later of—

12 (i) 6 years after the date the alien
13 was initially granted conditional permanent
14 resident status; or

15 (ii) any other expiration date of the
16 alien’s conditional permanent resident sta-
17 tus, as extended by the Secretary in ac-
18 cordance with this Act.

19 (B) STATUS DURING PENDENCY.—An
20 alien shall be deemed to have permanent resi-
21 dent status on a conditional basis during the
22 period that the alien’s application submitted
23 under this subsection is pending.

24 (3) ADJUDICATION OF APPLICATION.—

1 (A) IN GENERAL.—The Secretary shall
2 make a determination on each application filed
3 by an alien under this subsection as to whether
4 the alien meets the requirements for removal of
5 the conditional basis of the alien’s permanent
6 resident status.

7 (B) ADJUSTMENT OF STATUS IF FAVOR-
8 ABLE DETERMINATION.—If the Secretary deter-
9 mines that the alien meets such requirements,
10 the Secretary shall notify the alien of such de-
11 termination and remove the conditional basis of
12 the alien’s permanent resident status, effective
13 as of the date of such determination.

14 (C) TERMINATION IF ADVERSE DETER-
15 MINATION.—If the Secretary determines that
16 the alien does not meet such requirements, the
17 Secretary shall notify the alien of such deter-
18 mination and, if the alien no longer meets the
19 requirements for permanent resident status on
20 a conditional basis under this Act, terminate
21 the conditional permanent resident status
22 granted the alien under this Act as of the date
23 of such determination.

24 (c) TREATMENT FOR PURPOSES OF NATURALIZA-
25 TION.—

1 (1) IN GENERAL.—For purposes of title III of
2 the Immigration and Nationality Act (8 U.S.C. 1401
3 et seq.), an alien granted permanent resident status
4 on a conditional basis under this Act shall be consid-
5 ered to have been admitted as an alien lawfully ad-
6 mitted for permanent residence and to be in the
7 United States as an alien lawfully admitted to the
8 United States for permanent residence.

9 (2) LIMITATION ON APPLICATION FOR NATU-
10 RALIZATION.—An alien may not apply for natu-
11 ralization during the period that the alien is in per-
12 manent resident status on a conditional basis under
13 this Act.

14 **SEC. 6. CONFIDENTIALITY OF INFORMATION.**

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

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

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

24 (3) permit anyone other than an officer or em-
25 ployee of the United States Government or, in the

1 case of applications filed under this Act with a des-
2 ignated entity, that designated entity, to examine
3 applications filed under this Act.

4 (b) REQUIRED DISCLOSURE.—The Attorney General
5 or the Secretary of Homeland Security shall provide the
6 information furnished under this section, and any other
7 information derived from such furnished information, to—

8 (1) a Federal, State, tribal, or local law enforce-
9 ment agency, intelligence agency, national security
10 agency, component of the Department of Homeland
11 Security, court, or grand jury in connection with a
12 criminal investigation or prosecution, a background
13 check conducted pursuant to section 103 of the
14 Brady Handgun Violence Protection Act (Public
15 Law 103–159; 18 U.S.C. 922 note), or national se-
16 curity purposes, if such information is requested by
17 such entity or consistent with an information shar-
18 ing agreement or mechanism; or

19 (2) an official coroner for purposes of affirma-
20 tively identifying a deceased individual (whether or
21 not such individual is deceased as a result of a
22 crime).

23 (c) FRAUD IN APPLICATION PROCESS OR CRIMINAL
24 CONDUCT.—Notwithstanding any other provision of this
25 section, information concerning whether an alien seeking

1 relief under this Act has engaged in fraud in an applica-
2 tion for such relief or at any time committed a crime may
3 be used or released for immigration enforcement, law en-
4 forcement, or national security purposes.

5 (d) PENALTY.—Whoever knowingly uses, publishes,
6 or permits information to be examined in violation of this
7 section shall be fined not more than \$10,000.

8 **SEC. 7. REGULATIONS.**

9 (a) INITIAL PUBLICATION.—Not later than 180 days
10 after the date of the enactment of this Act, the Secretary
11 shall publish regulations implementing this Act. Such reg-
12 ulations shall allow eligible individuals to apply affirma-
13 tively for the relief available under section 3 without being
14 placed in removal proceedings.

15 (b) INTERIM REGULATIONS.—Notwithstanding sec-
16 tion 553 of title 5, United States Code, the regulations
17 required by subsection (a) shall be effective, on an interim
18 basis, immediately upon publication but may be subject
19 to change and revision after public notice and opportunity
20 for a period of public comment.

21 (c) FINAL REGULATIONS.—Within a reasonable time
22 after publication of the interim regulations in accordance
23 with subsection (b), the Secretary shall publish final regu-
24 lations implementing this Act.

1 (d) PAPERWORK REDUCTION ACT.—The require-
2 ments of chapter 35 of title 44, United States Code (com-
3 monly known as the “Paperwork Reduction Act”) shall
4 not apply to any action to implement this Act.

5 **SEC. 8. HIGHER EDUCATION ASSISTANCE.**

6 (a) IN GENERAL.—Notwithstanding any provision of
7 the Higher Education Act of 1965 (20 U.S.C. 1001 et
8 seq.) or any provision of title IV of the Personal Responsi-
9 bility and Work Opportunity Reconciliation Act of 1996
10 (8 U.S.C. 1601 et seq.), with respect to Federal financial
11 education assistance, an alien who is lawfully admitted for
12 permanent residence under this Act and has not had the
13 conditional basis removed shall not be eligible for—

14 (1) Federal Pell grants under part A of title IV
15 of the Higher Education Act of 1965 (20 U.S.C.
16 1070a et seq.); and

17 (2) Federal supplemental educational oppor-
18 tunity grants under part A of title IV of that Act
19 (20 U.S.C. 1070b et seq.).

20 (b) RESTORATION OF STATE RIGHT TO DETERMINE
21 RESIDENCY FOR PURPOSES OF HIGHER EDUCATION
22 BENEFITS.—

23 (1) IN GENERAL.—Section 505 of the Illegal
24 Immigration Reform and Immigrant Responsibility
25 Act of 1996 (8 U.S.C. 1623) is repealed.

1 (2) EFFECTIVE DATE.—The repeal under para-
2 graph (1) shall take effect as if included in the en-
3 actment of the Illegal Immigration Reform and Im-
4 migrant Responsibility Act of 1996.

○