

117TH CONGRESS
1ST SESSION

S. 264

To authorize the cancellation of removal and adjustment of status of certain individuals 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

FEBRUARY 4, 2021

Mr. DURBIN (for himself and Mr. GRAHAM) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize the cancellation of removal and adjustment of status of certain individuals 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 “Dream Act of 2021”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) IN GENERAL.—Except as otherwise specifi-
8 cally provided, any term used in this Act that is

1 used in the immigration laws shall have the meaning
2 given such term in the immigration laws.

3 (2) DACA.—The term “DACA” means de-
4 ferred action granted to an alien pursuant to the
5 Deferred Action for Childhood Arrivals program an-
6 nounced by President Obama on June 15, 2012.

7 (3) DISABILITY.—The term “disability” has the
8 meaning given such term in section 3(1) of the
9 Americans with Disabilities Act of 1990 (42 U.S.C.
10 12102(1)).

11 (4) EARLY CHILDHOOD EDUCATION PRO-
12 GRAM.—The term “early childhood education pro-
13 gram” has the meaning given such term in section
14 103 of the Higher Education Act of 1965 (20
15 U.S.C. 1003).

16 (5) ELEMENTARY SCHOOL; HIGH SCHOOL; SEC-
17 ONDARY SCHOOL.—The terms “elementary school”,
18 “high school”, and “secondary school” have the
19 meanings given such terms in section 8101 of the
20 Elementary and Secondary Education Act of 1965
21 (20 U.S.C. 7801).

22 (6) IMMIGRATION LAWS.—The term “immigra-
23 tion laws” has the meaning given such term in sec-
24 tion 101(a)(17) of the Immigration and Nationality
25 Act (8 U.S.C. 1101(a)(17)).

1 (7) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education”—

3 (A) except as provided in subparagraph
4 (B), has the meaning given such term in section
5 102 of the Higher Education Act of 1965 (20
6 U.S.C. 1002); and

7 (B) does not include an institution of high-
8 er education outside of the United States.

9 (8) PERMANENT RESIDENT STATUS ON A CON-
10 DITIONAL BASIS.—The term “permanent resident
11 status on a conditional basis” means status as an
12 alien lawfully admitted for permanent residence on
13 a conditional basis under this Act.

14 (9) POVERTY LINE.—The term “poverty line”
15 has the meaning given such term in section 673 of
16 the Community Services Block Grant Act (42 U.S.C.
17 9902).

18 (10) SECRETARY.—Except as otherwise specifi-
19 cally provided, the term “Secretary” means the Sec-
20 retary of Homeland Security.

21 (11) UNIFORMED SERVICES.—The term “Uni-
22 formed Services” has the meaning given the term
23 “uniformed services” in section 101(a) of title 10,
24 United States Code.

1 **SEC. 3. PERMANENT RESIDENT STATUS ON A CONDITIONAL**
2 **BASIS FOR CERTAIN LONG-TERM RESIDENTS**
3 **WHO ENTERED THE UNITED STATES AS CHIL-**
4 **DREN.**

5 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
6 standing any other provision of law, an alien shall be con-
7 sidered, at the time of obtaining the status of an alien
8 lawfully admitted for permanent residence under this sec-
9 tion, to have obtained such status on a conditional basis
10 subject to the provisions under this Act.

11 (b) **REQUIREMENTS.**—

12 (1) **IN GENERAL.**—Notwithstanding any other
13 provision of law, the Secretary shall cancel the re-
14 moval of, and adjust to the status of an alien law-
15 fully admitted for permanent residence on a condi-
16 tional basis, an alien who is inadmissible or deport-
17 able from the United States or is in temporary pro-
18 tected status under section 244 of the Immigration
19 and Nationality Act (8 U.S.C. 1254a), if—

20 (A) the alien has been continuously phys-
21 ically present in the United States since the
22 date that is 4 years before the date of the en-
23 actment of this Act;

24 (B) the alien was younger than 18 years of
25 age on the date on which the alien initially en-
26 tered the United States;

1 (C) subject to paragraphs (2) and (3), the
2 alien—

3 (i) is not inadmissible under para-
4 graph (2), (3), (6)(E), (6)(G), (8),
5 (10)(A), (10)(C), or (10)(D) of section
6 212(a) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(a));

8 (ii) has not ordered, incited, assisted,
9 or otherwise participated in the persecution
10 of any person on account of race, religion,
11 nationality, membership in a particular so-
12 cial group, or political opinion; and

13 (iii) has not been convicted of—

14 (I) any offense under Federal or
15 State law, other than a State offense
16 for which an essential element is the
17 alien's immigration status, that is
18 punishable by a maximum term of im-
19 prisonment of more than 1 year; or

20 (II) 3 or more offenses under
21 Federal or State law, other than State
22 offenses for which an essential ele-
23 ment is the alien's immigration sta-
24 tus, for which the alien was convicted
25 on different dates for each of the 3 of-

1 fenses and imprisoned for an aggre-
 2 gate of 90 days or more; and

3 (D) the alien—

4 (i) has been admitted to an institution
 5 of higher education;

6 (ii) has earned a high school diploma
 7 or a commensurate alternative award from
 8 a public or private high school, or has ob-
 9 tained a general education development
 10 certificate recognized under State law or a
 11 high school equivalency diploma in the
 12 United States; or

13 (iii) is enrolled in secondary school or
 14 in an education program assisting students
 15 in—

16 (I) obtaining a regular high
 17 school diploma or its recognized equiv-
 18 alent under State law; or

19 (II) in passing a general edu-
 20 cational development exam, a high
 21 school equivalence diploma examina-
 22 tion, or other similar State-authorized
 23 exam.

24 (2) WAIVER.—With respect to any benefit
 25 under this Act, the Secretary may waive the grounds

1 of inadmissibility under paragraph (2), (6)(E),
2 (6)(G), or (10)(D) of section 212(a) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1182(a)) for hu-
4 manitarian purposes or family unity or if the waiver
5 is otherwise in the public interest.

6 (3) TREATMENT OF EXPUNGED CONVIC-
7 TIONS.—An expunged conviction shall not automati-
8 cally be treated as an offense under paragraph (1).
9 The Secretary shall evaluate expunged convictions
10 on a case-by-case basis according to the nature and
11 severity of the offense to determine whether, under
12 the particular circumstances, the Secretary deter-
13 mines that the alien should be eligible for cancella-
14 tion of removal, adjustment to permanent resident
15 status on a conditional basis, or other adjustment of
16 status.

17 (4) DACA RECIPIENTS.—The Secretary shall
18 cancel the removal of, and adjust to the status of an
19 alien lawfully admitted for permanent residence on
20 a conditional basis, an alien who was granted DACA
21 unless the alien has engaged in conduct since the
22 alien was granted DACA that would make the alien
23 ineligible for DACA.

24 (5) APPLICATION FEE.—

1 (A) IN GENERAL.—The Secretary may re-
2 quire an alien applying for permanent resident
3 status on a conditional basis under this section
4 to pay a reasonable fee that is commensurate
5 with the cost of processing the application.

6 (B) EXEMPTION.—An applicant may be
7 exempted from paying the fee required under
8 subparagraph (A) if the alien—

9 (i)(I) is younger than 18 years of age;

10 (II) received total income, during the
11 12-month period immediately preceding the
12 date on which the alien files an application
13 under this section, that is less than 150
14 percent of the poverty line; and

15 (III) is in foster care or otherwise
16 lacking any parental or other familial sup-
17 port;

18 (ii) is younger than 18 years of age
19 and is homeless;

20 (iii)(I) cannot care for himself or her-
21 self because of a serious, chronic disability;
22 and

23 (II) received total income, during the
24 12-month period immediately preceding the
25 date on which the alien files an application

1 under this section, that is less than 150
2 percent of the poverty line; or

3 (iv)(I) during the 12-month period im-
4 mediately preceding the date on which the
5 alien files an application under this sec-
6 tion, accumulated \$10,000 or more in debt
7 as a result of unreimbursed medical ex-
8 penses incurred by the alien or an imme-
9 diate family member of the alien; and

10 (II) received total income, during the
11 12-month period immediately preceding the
12 date on which the alien files an application
13 under this section, that is less than 150
14 percent of the poverty line.

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

24 (7) BACKGROUND CHECKS.—

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

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

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

13 (B) COMPLETION OF BACKGROUND
14 CHECKS.—The security and law enforcement
15 background checks of an alien required under
16 subparagraph (A) shall be completed, to the
17 satisfaction of the Secretary, before the date on
18 which the Secretary grants such alien perma-
19 nent resident status on a conditional basis
20 under this section.

21 (8) MEDICAL EXAMINATION.—

22 (A) REQUIREMENT.—An alien applying for
23 permanent resident status on a conditional
24 basis under this section shall undergo a medical
25 examination.

1 (B) POLICIES AND PROCEDURES.—The
2 Secretary, with the concurrence of the Sec-
3 retary of Health and Human Services, shall
4 prescribe policies and procedures for the nature
5 and timing of the examination required under
6 subparagraph (A).

7 (9) MILITARY SELECTIVE SERVICE.—An alien
8 applying for permanent resident status on a condi-
9 tional basis under this section shall establish that
10 the alien has registered under the Military Selective
11 Service Act (50 U.S.C. 3801 et seq.), if the alien is
12 subject to registration under such Act.

13 (c) DETERMINATION OF CONTINUOUS PRESENCE.—

14 (1) TERMINATION OF CONTINUOUS PERIOD.—
15 Any period of continuous physical presence in the
16 United States of an alien who applies for permanent
17 resident status on a conditional basis under this sec-
18 tion shall not terminate when the alien is served a
19 notice to appear under section 239(a) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1229(a)).

21 (2) TREATMENT OF CERTAIN BREAKS IN PRES-
22 ENCE.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraphs (B) and (C), an alien shall be
25 considered to have failed to maintain contin-

uous physical presence in the United States under subsection (b)(1)(A) if the alien has departed from the United States for any period exceeding 90 days or for any periods, in the aggregate, exceeding 180 days.

(B) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in subparagraph (A) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien’s control, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(C) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under subparagraph (A).

(d) LIMITATION ON REMOVAL OF CERTAIN ALIENS.—

(1) IN GENERAL.—The Secretary or the Attorney General may not remove an alien who appears prima facie eligible for relief under this section.

1 (2) ALIENS SUBJECT TO REMOVAL.—The Sec-
2 retary shall provide a reasonable opportunity to
3 apply for relief under this section to any alien who
4 requests such an opportunity or who appears prima
5 facie eligible for relief under this section if the alien
6 is in removal proceedings, is the subject of a final
7 removal order, or is the subject of a voluntary depart-
8 ture order.

9 (3) CERTAIN ALIENS ENROLLED IN ELEMEN-
10 TARY OR SECONDARY SCHOOL.—

11 (A) STAY OF REMOVAL.—The Attorney
12 General shall stay the removal proceedings of
13 an alien who—

14 (i) meets all the requirements under
15 subparagraphs (A), (B), and (C) of sub-
16 section (b)(1), subject to paragraphs (2)
17 and (3) of such subsection;

18 (ii) is at least 5 years of age; and

19 (iii) is enrolled in an elementary
20 school, a secondary school, or an early
21 childhood education program.

22 (B) COMMENCEMENT OF REMOVAL PRO-
23 CEEDINGS.—The Secretary may not commence
24 removal proceedings for an alien described in
25 subparagraph (A).

1 (C) EMPLOYMENT.—An alien whose re-
 2 moval is stayed pursuant to subparagraph (A)
 3 or who may not be placed in removal pro-
 4 ceedings pursuant to subparagraph (B) shall,
 5 upon application to the Secretary, be granted
 6 an employment authorization document.

7 (D) LIFT OF STAY.—The Secretary or At-
 8 torney General may not lift the stay granted to
 9 an alien under subparagraph (A) unless the
 10 alien ceases to meet the requirements under
 11 such subparagraph.

12 (e) EXEMPTION FROM NUMERICAL LIMITATIONS.—
 13 Nothing in this section or in any other law may be con-
 14 strued to apply a numerical limitation on the number of
 15 aliens who may be granted permanent resident status on
 16 a conditional basis under this Act.

17 **SEC. 4. TERMS OF PERMANENT RESIDENT STATUS ON A**
 18 **CONDITIONAL BASIS.**

19 (a) PERIOD OF STATUS.—Permanent resident status
 20 on a conditional basis is—

21 (1) valid for a period of 8 years, unless such pe-
 22 riod is extended by the Secretary; and

23 (2) subject to termination under subsection (c).

24 (b) NOTICE OF REQUIREMENTS.—At the time an
 25 alien obtains permanent resident status on a conditional

1 basis, the Secretary shall provide notice to the alien re-
2 garding the provisions of this Act and the requirements
3 to have the conditional basis of such status removed.

4 (c) TERMINATION OF STATUS.—The Secretary may
5 terminate the permanent resident status on a conditional
6 basis of an alien only if the Secretary—

7 (1) determines that the alien ceases to meet the
8 requirements under paragraph (1)(C) of section
9 3(b), subject to paragraphs (2) and (3) of that sec-
10 tion; and

11 (2) prior to the termination, provides the
12 alien—

13 (A) notice of the proposed termination;
14 and

15 (B) the opportunity for a hearing to pro-
16 vide evidence that the alien meets such require-
17 ments or otherwise contest the termination.

18 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), an alien whose permanent resident status
21 on a conditional basis expires under subsection
22 (a)(1) or is terminated under subsection (c) or
23 whose application for such status is denied shall re-
24 turn to the immigration status that the alien had
25 immediately before receiving permanent resident sta-

1 tus on a conditional basis or applying for such sta-
 2 tus, as appropriate.

3 (2) SPECIAL RULE FOR TEMPORARY PRO-
 4 TECTED STATUS.—An alien whose permanent resi-
 5 dent status on a conditional basis expires under sub-
 6 section (a)(1) or is terminated under subsection (c)
 7 or whose application for such status is denied and
 8 who had temporary protected status under section
 9 244 of the Immigration and Nationality Act (8
 10 U.S.C. 1254a) immediately before receiving or ap-
 11 plying for such permanent resident status on a con-
 12 ditional basis, as appropriate, may not return to
 13 such temporary protected status if—

14 (A) the relevant designation under section
 15 244(b) of the Immigration and Nationality Act
 16 (8 U.S.C. 1254a(b)) has been terminated; or

17 (B) the Secretary determines that the rea-
 18 son for terminating the permanent resident sta-
 19 tus on a conditional basis renders the alien in-
 20 eligible for such temporary protected status.

21 **SEC. 5. REMOVAL OF CONDITIONAL BASIS OF PERMANENT**
 22 **RESIDENT STATUS.**

23 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
 24 BASIS.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the Secretary shall remove the conditional basis of
3 an alien’s permanent resident status granted under
4 this Act and grant the alien status as an alien law-
5 fully admitted for permanent residence if the alien—

6 (A) is described in paragraph (1)(C) of
7 section 3(b), subject to paragraphs (2) and (3)
8 of that section;

9 (B) has not abandoned the alien’s resi-
10 dence in the United States; and

11 (C)(i) has acquired a degree from an insti-
12 tution of higher education or has completed at
13 least 2 years, in good standing, in a program
14 for a bachelor’s degree or higher degree in the
15 United States;

16 (ii) has served in the Uniformed Services
17 for at least 2 years and, if discharged, received
18 an honorable discharge; or

19 (iii) has been employed for periods totaling
20 at least 3 years and at least 75 percent of the
21 time that the alien has had a valid employment
22 authorization, except that any period during
23 which the alien is not employed while having a
24 valid employment authorization and is enrolled
25 in an institution of higher education, a sec-

1 ondary school, or an education program de-
2 scribed in section 3(b)(1)(D)(iii), shall not
3 count toward the time requirements under this
4 clause.

5 (2) **HARDSHIP EXCEPTION.**—The Secretary
6 shall remove the conditional basis of an alien’s per-
7 manent resident status and grant the alien status as
8 an alien lawfully admitted for permanent residence
9 if the alien—

10 (A) satisfies the requirements under sub-
11 paragraphs (A) and (B) of paragraph (1);

12 (B) demonstrates compelling circumstances
13 for the inability to satisfy the requirements
14 under subparagraph (C) of such paragraph; and

15 (C) demonstrates that—

16 (i) the alien has a disability;

17 (ii) the alien is a full-time caregiver of
18 a minor child; or

19 (iii) the removal of the alien from the
20 United States would result in extreme
21 hardship to the alien or the alien’s spouse,
22 parent, or child who is a national of the
23 United States or is lawfully admitted for
24 permanent residence.

25 (3) **CITIZENSHIP REQUIREMENT.**—

1 (A) IN GENERAL.—Except as provided in
 2 subparagraph (B), the conditional basis of an
 3 alien’s permanent resident status granted under
 4 this Act may not be removed unless the alien
 5 demonstrates that the alien satisfies the re-
 6 quirements under section 312(a) of the Immi-
 7 gration and Nationality Act (8 U.S.C. 1423(a)).

8 (B) EXCEPTION.—Subparagraph (A) shall
 9 not apply to an alien who is unable to meet the
 10 requirements under such section 312(a) due to
 11 disability.

12 (4) APPLICATION FEE.—

13 (A) IN GENERAL.—The Secretary may re-
 14 quire aliens applying for lawful permanent resi-
 15 dent status under this section to pay a reason-
 16 able fee that is commensurate with the cost of
 17 processing the application.

18 (B) EXEMPTION.—An applicant may be
 19 exempted from paying the fee required under
 20 subparagraph (A) if the alien—

21 (i)(I) is younger than 18 years of age;

22 (II) received total income, during the
 23 12-month period immediately preceding the
 24 date on which the alien files an application

1 under this section, that is less than 150
2 percent of the poverty line; and

3 (III) is in foster care or otherwise
4 lacking any parental or other familial sup-
5 port;

6 (ii) is younger than 18 years of age
7 and is homeless;

8 (iii)(I) cannot care for himself or her-
9 self because of a serious, chronic disability;
10 and

11 (II) received total income, during the
12 12-month period immediately preceding the
13 date on which the alien files an application
14 under this section, that is less than 150
15 percent of the poverty line; or

16 (iv)(I) during the 12-month period im-
17 mediately preceding the date on which the
18 alien files an application under this sec-
19 tion, the alien accumulated \$10,000 or
20 more in debt as a result of unreimbursed
21 medical expenses incurred by the alien or
22 an immediate family member of the alien;
23 and

24 (II) received total income, during the
25 12-month period immediately preceding the

1 date on which the alien files an application
2 under this section, that is less than 150
3 percent of the poverty line.

4 (5) SUBMISSION OF BIOMETRIC AND BIO-
5 GRAPHIC DATA.—The Secretary may not remove the
6 conditional basis of an alien’s permanent resident
7 status unless the alien submits biometric and bio-
8 graphic data, in accordance with procedures estab-
9 lished by the Secretary. The Secretary shall provide
10 an alternative procedure for applicants who are un-
11 able to provide such biometric data because of a
12 physical impairment.

13 (6) BACKGROUND CHECKS.—

14 (A) REQUIREMENT FOR BACKGROUND
15 CHECKS.—The Secretary shall utilize biometric,
16 biographic, and other data that the Secretary
17 determines appropriate—

18 (i) to conduct security and law en-
19 forcement background checks of an alien
20 applying for removal of the conditional
21 basis of the alien’s permanent resident sta-
22 tus; and

23 (ii) to determine whether there is any
24 criminal, national security, or other factor

1 that would render the alien ineligible for
2 removal of such conditional basis.

3 (B) COMPLETION OF BACKGROUND
4 CHECKS.—The security and law enforcement
5 background checks of an alien required under
6 subparagraph (A) shall be completed, to the
7 satisfaction of the Secretary, before the date on
8 which the Secretary removes the conditional
9 basis of the alien's permanent resident status.

10 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
11 TION.—

12 (1) IN GENERAL.—For purposes of title III of
13 the Immigration and Nationality Act (8 U.S.C. 1401
14 et seq.), an alien granted permanent resident status
15 on a conditional basis shall be considered to have
16 been admitted to the United States, and be present
17 in the United States, as an alien lawfully admitted
18 for permanent residence.

19 (2) LIMITATION ON APPLICATION FOR NATU-
20 RALIZATION.—An alien may not apply for natu-
21 ralization while the alien is in permanent resident
22 status on a conditional basis.

1 **SEC. 6. DOCUMENTATION REQUIREMENTS.**

2 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
3 alien’s application for permanent resident status on a con-
4 ditional basis may include, as proof of identity—

5 (1) a passport or national identity document
6 from the alien’s country of origin that includes the
7 alien’s name and the alien’s photograph or finger-
8 print;

9 (2) the alien’s birth certificate and an identity
10 card that includes the alien’s name and photograph;

11 (3) a school identification card that includes the
12 alien’s name and photograph, and school records
13 showing the alien’s name and that the alien is or
14 was enrolled at the school;

15 (4) a Uniformed Services identification card
16 issued by the Department of Defense;

17 (5) any immigration or other document issued
18 by the United States Government bearing the alien’s
19 name and photograph; or

20 (6) a State-issued identification card bearing
21 the alien’s name and photograph.

22 (b) DOCUMENTS ESTABLISHING CONTINUOUS PHYS-
23 ICAL PRESENCE IN THE UNITED STATES.—To establish
24 that an alien has been continuously physically present in
25 the United States, as required under section 3(b)(1)(A),
26 or to establish that an alien has not abandoned residence

1 in the United States, as required under section 5(a)(1)(B),
2 the alien may submit documents to the Secretary, includ-
3 ing—

4 (1) employment records that include the em-
5 ployer's name and contact information;

6 (2) records from any educational institution the
7 alien has attended in the United States;

8 (3) records of service from the Uniformed Serv-
9 ices;

10 (4) official records from a religious entity con-
11 firming the alien's participation in a religious cere-
12 mony;

13 (5) passport entries;

14 (6) a birth certificate for a child who was born
15 in the United States;

16 (7) automobile license receipts or registration;

17 (8) deeds, mortgages, or rental agreement con-
18 tracts;

19 (9) tax receipts;

20 (10) insurance policies;

21 (11) remittance records;

22 (12) rent receipts or utility bills bearing the
23 alien's name or the name of an immediate family
24 member of the alien, and the alien's address;

1 (13) copies of money order receipts for money
2 sent in or out of the United States;

3 (14) dated bank transactions; or

4 (15) 2 or more sworn affidavits from individ-
5 uals who are not related to the alien who have direct
6 knowledge of the alien's continuous physical pres-
7 ence in the United States, that contain—

8 (A) the name, address, and telephone num-
9 ber of the affiant; and

10 (B) the nature and duration of the rela-
11 tionship between the affiant and the alien.

12 (c) DOCUMENTS ESTABLISHING INITIAL ENTRY
13 INTO THE UNITED STATES.—To establish under section
14 3(b)(1)(B) that an alien was younger than 18 years of
15 age on the date on which the alien initially entered the
16 United States, an alien may submit documents to the Sec-
17 retary, including—

18 (1) an admission stamp on the alien's passport;

19 (2) records from any educational institution the
20 alien has attended in the United States;

21 (3) any document from the Department of Jus-
22 tice or the Department of Homeland Security stat-
23 ing the alien's date of entry into the United States;

24 (4) hospital or medical records showing medical
25 treatment or hospitalization, the name of the med-

1 ical facility or physician, and the date of the treat-
 2 ment or hospitalization;

3 (5) rent receipts or utility bills bearing the
 4 alien's name or the name of an immediate family
 5 member of the alien, and the alien's address;

6 (6) employment records that include the em-
 7 ployer's name and contact information;

8 (7) official records from a religious entity con-
 9 firming the alien's participation in a religious cere-
 10 mony;

11 (8) a birth certificate for a child who was born
 12 in the United States;

13 (9) automobile license receipts or registration;

14 (10) deeds, mortgages, or rental agreement con-
 15 tracts;

16 (11) tax receipts;

17 (12) travel records;

18 (13) copies of money order receipts sent in or
 19 out of the country;

20 (14) dated bank transactions;

21 (15) remittance records; or

22 (16) insurance policies.

23 (d) DOCUMENTS ESTABLISHING ADMISSION TO AN
 24 INSTITUTION OF HIGHER EDUCATION.—To establish that
 25 an alien has been admitted to an institution of higher edu-

1 cation, the alien shall submit to the Secretary a document
 2 from the institution of higher education certifying that the
 3 alien—

4 (1) has been admitted to the institution; or

5 (2) is currently enrolled in the institution as a
 6 student.

7 (e) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
 8 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—

9 To establish that an alien has acquired a degree from an
 10 institution of higher education in the United States, the
 11 alien shall submit to the Secretary a diploma or other doc-
 12 ument from the institution stating that the alien has re-
 13 ceived such a degree.

14 (f) DOCUMENTS ESTABLISHING RECEIPT OF HIGH
 15 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
 16 MENT CERTIFICATE, OR A RECOGNIZED EQUIVALENT.—

17 To establish that an alien has earned a high school di-
 18 ploma or a commensurate alternative award from a public
 19 or private high school, or has obtained a general edu-
 20 cational development certificate recognized under State
 21 law or a high school equivalency diploma in the United
 22 States, the alien shall submit to the Secretary—

23 (1) a high school diploma, certificate of comple-
 24 tion, or other alternate award;

1 (2) a high school equivalency diploma or certifi-
2 cate recognized under State law; or

3 (3) evidence that the alien passed a State-au-
4 thorized exam, including the general educational de-
5 velopment exam, in the United States.

6 (g) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
7 EDUCATIONAL PROGRAM.—To establish that an alien is
8 enrolled in any school or education program described in
9 section 3(b)(1)(D)(iii), 3(d)(3)(A)(iii), or 5(a)(1)(C), the
10 alien shall submit school records from the United States
11 school that the alien is currently attending that include—

12 (1) the name of the school; and

13 (2) the alien’s name, periods of attendance, and
14 current grade or educational level.

15 (h) DOCUMENTS ESTABLISHING EXEMPTION FROM
16 APPLICATION FEES.—To establish that an alien is exempt
17 from an application fee under section 3(b)(5)(B) or
18 5(a)(4)(B), the alien shall submit to the Secretary the fol-
19 lowing relevant documents:

20 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
21 tablish that an alien meets an age requirement, the
22 alien shall provide proof of identity, as described in
23 subsection (a), that establishes that the alien is
24 younger than 18 years of age.

1 (2) DOCUMENTS TO ESTABLISH INCOME.—To
2 establish the alien’s income, the alien shall provide—

3 (A) employment records that have been
4 maintained by the Social Security Administra-
5 tion, the Internal Revenue Service, or any other
6 Federal, State, or local government agency;

7 (B) bank records; or

8 (C) at least 2 sworn affidavits from indi-
9 viduals who are not related to the alien and
10 who have direct knowledge of the alien’s work
11 and income that contain—

12 (i) the name, address, and telephone
13 number of the affiant; and

14 (ii) the nature and duration of the re-
15 lationship between the affiant and the
16 alien.

17 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
18 LACK OF FAMILIAL SUPPORT, HOMELESSNESS, OR
19 SERIOUS, CHRONIC DISABILITY.—To establish that
20 the alien was in foster care, lacks parental or famil-
21 ial support, is homeless, or has a serious, chronic
22 disability, the alien shall provide at least 2 sworn af-
23 fidavits from individuals who are not related to the
24 alien and who have direct knowledge of the cir-
25 cumstances that contain—

1 (A) a statement that the alien is in foster
 2 care, otherwise lacks any parental or other fa-
 3 miliar support, is homeless, or has a serious,
 4 chronic disability, as appropriate;

5 (B) the name, address, and telephone num-
 6 ber of the affiant; and

7 (C) the nature and duration of the rela-
 8 tionship between the affiant and the alien.

9 (4) DOCUMENTS TO ESTABLISH UNPAID MED-
 10 ICAL EXPENSE.—To establish that the alien has debt
 11 as a result of unreimbursed medical expenses, the
 12 alien shall provide receipts or other documentation
 13 from a medical provider that—

14 (A) bear the provider’s name and address;

15 (B) bear the name of the individual receiv-
 16 ing treatment; and

17 (C) document that the alien has accumu-
 18 lated \$10,000 or more in debt in the past 12
 19 months as a result of unreimbursed medical ex-
 20 penses incurred by the alien or an immediate
 21 family member of the alien.

22 (i) DOCUMENTS ESTABLISHING QUALIFICATION FOR
 23 HARDSHIP EXEMPTION.—To establish that an alien satis-
 24 fies one of the criteria for the hardship exemption set forth
 25 in section 5(a)(2)(C), the alien shall submit to the Sec-

1 retary at least 2 sworn affidavits from individuals who are
 2 not related to the alien and who have direct knowledge
 3 of the circumstances that warrant the exemption, that
 4 contain—

5 (1) the name, address, and telephone number of
 6 the affiant; and

7 (2) the nature and duration of the relationship
 8 between the affiant and the alien.

9 (j) DOCUMENTS ESTABLISHING SERVICE IN THE
 10 UNIFORMED SERVICES.—To establish that an alien has
 11 served in the Uniformed Services for at least 2 years and,
 12 if discharged, received an honorable discharge, the alien
 13 shall submit to the Secretary—

14 (1) a Department of Defense form DD–214;

15 (2) a National Guard Report of Separation and
 16 Record of Service form 22;

17 (3) personnel records for such service from the
 18 appropriate Uniformed Service; or

19 (4) health records from the appropriate Uni-
 20 formed Service.

21 (k) DOCUMENTS ESTABLISHING EMPLOYMENT.—

22 (1) IN GENERAL.—An alien may satisfy the em-
 23 ployment requirement under section 5(a)(1)(C)(iii)
 24 by submitting records that—

1 (A) establish compliance with such employ-
 2 ment requirement; and

3 (B) have been maintained by the Social Se-
 4 curity Administration, the Internal Revenue
 5 Service, or any other Federal, State, or local
 6 government agency.

7 (2) OTHER DOCUMENTS.—An alien who is un-
 8 able to submit the records described in paragraph
 9 (1) may satisfy the employment requirement by sub-
 10 mitting at least 2 types of reliable documents that
 11 provide evidence of employment, including—

12 (A) bank records;

13 (B) business records;

14 (C) employer records;

15 (D) records of a labor union, day labor
 16 center, or organization that assists workers in
 17 employment;

18 (E) sworn affidavits from individuals who
 19 are not related to the alien and who have direct
 20 knowledge of the alien's work, that contain—

21 (i) the name, address, and telephone
 22 number of the affiant; and

23 (ii) the nature and duration of the re-
 24 lationship between the affiant and the
 25 alien; and

1 (F) remittance records.

2 (I) AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-
3 UMENTS.—If the Secretary determines, after publication
4 in the Federal Register and an opportunity for public com-
5 ment, that any document or class of documents does not
6 reliably establish identity or that permanent resident sta-
7 tus on a conditional basis is being obtained fraudulently
8 to an unacceptable degree, the Secretary may prohibit or
9 restrict the use of such document or class of documents.

10 **SEC. 7. RULEMAKING.**

11 (a) INITIAL PUBLICATION.—Not later than 90 days
12 after the date of the enactment of this Act, the Secretary
13 shall publish regulations implementing this Act in the
14 Federal Register. Such regulations shall allow eligible indi-
15 viduals to immediately apply affirmatively for the relief
16 available under section 3 without being placed in removal
17 proceedings.

18 (b) INTERIM REGULATIONS.—Notwithstanding sec-
19 tion 553 of title 5, United States Code, the regulations
20 published pursuant to subsection (a) shall be effective, on
21 an interim basis, immediately upon publication in the Fed-
22 eral Register, but may be subject to change and revision
23 after public notice and opportunity for a period of public
24 comment.

1 (c) FINAL REGULATIONS.—Not later than 180 days
 2 after the date on which interim regulations are published
 3 under this section, the Secretary shall publish final regula-
 4 tions implementing this Act.

5 (d) PAPERWORK REDUCTION ACT.—The require-
 6 ments under chapter 35 of title 44, United States Code
 7 (commonly known as the “Paperwork Reduction Act”),
 8 shall not apply to any action to implement this Act.

9 **SEC. 8. CONFIDENTIALITY OF INFORMATION.**

10 (a) IN GENERAL.—The Secretary may not disclose
 11 or use information provided in applications filed under this
 12 Act or in requests for DACA for the purpose of immigra-
 13 tion enforcement.

14 (b) REFERRALS PROHIBITED.—The Secretary may
 15 not refer any individual who has been granted permanent
 16 resident status on a conditional basis or who was granted
 17 DACA to U.S. Immigration and Customs Enforcement,
 18 U.S. Customs and Border Protection, or any designee of
 19 either such entity.

20 (c) LIMITED EXCEPTION.—Notwithstanding sub-
 21 sections (a) and (b), information provided in an applica-
 22 tion for permanent resident status on a conditional basis
 23 or a request for DACA may be shared with Federal secu-
 24 rity and law enforcement agencies—

1 (1) for assistance in the consideration of an ap-
 2 plication for permanent resident status on a condi-
 3 tional basis;

4 (2) to identify or prevent fraudulent claims;

5 (3) for national security purposes; or

6 (4) for the investigation or prosecution of any
 7 felony not related to immigration status.

8 (d) PENALTY.—Any person who knowingly uses, pub-
 9 lishes, or permits information to be examined in violation
 10 of this section shall be fined not more than \$10,000.

11 **SEC. 9. RESTORATION OF STATE OPTION TO DETERMINE**
 12 **RESIDENCY FOR PURPOSES OF HIGHER EDU-**
 13 **CATION BENEFITS.**

14 (a) IN GENERAL.—Section 505 of the Illegal Immi-
 15 gration Reform and Immigrant Responsibility Act of 1996
 16 (8 U.S.C. 1623) is repealed.

17 (b) EFFECTIVE DATE.—The repeal under subsection
 18 (a) shall take effect as if included in the original enact-
 19 ment of the Illegal Immigration Reform and Immigrant
 20 Responsibility Act of 1996 (division C of Public Law 104–
 21 208; 110 Stat. 3009–546).

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