



Senate Judiciary Committee

U.S. Senator Jeff Sessions (R-AL) | Ranking Member

CRITICAL IMMIGRATION ALERT

OBAMA-REID AMNESTY PLAN BACK ON SENATE CALENDAR FOR LAME-DUCK SESSION

BILL WOULD GIVE COLLEGE PREFERENCE TO ILLEGALS OVER CITIZENS

Senate Majority Leader Harry Reid has placed S.3827, the DREAM Act, on the Legislative Calendar and has indicated he will seek a vote during the lame duck session of Congress.

In addition to immediately putting an estimated 2.1 million illegal aliens (including certain criminal aliens) on a path to citizenship, the DREAM Act will give them access to in-state tuition rates at public universities, federal student loans, and federal work-study programs.

Aliens granted amnesty by the DREAM Act will have the legal right to petition for entry of their family members, including their adult brothers and sisters and the parents who illegally brought or sent them to the United States, once they become naturalized U.S. citizens. **In less than a decade, this reality could easily double or triple the more than 2.1 million green cards that will be immediately distributed as a result of the DREAM Act.**

TEN THINGS YOU NEED TO KNOW ABOUT S.3827, THE DREAM ACT

1. **THE DREAM ACT IS NOT LIMITED TO CHILDREN, AND IT WILL BE FUNDED ON THE BACKS OF HARD WORKING, LAW-ABIDING AMERICANS**

Proponents of the DREAM Act frequently claim the bill offers relief only to illegal alien “kids.” Incredibly, previous versions of the DREAM Act had no age limit at all, so illegal aliens of any age who satisfied the Act’s requirements—not just children—could obtain lawful permanent resident (LPR) status. In response to this criticism, S.3827 includes a requirement that aliens be under the age of **35** on the date of enactment to be eligible for LPR status. Even with this cap, many aliens would be at least 41 years old before obtaining full LPR status under the Act—hardly the “kids” the Act’s advocates keep talking about.

The DREAM Act requires that DHS/USCIS process all DREAM Act applications (applications that would require complex, multi-step adjudication) without being able to increase fees to handle processing. This mandate would require either additional Congressional appropriations, or for USCIS, a primarily fee-funded agency, to raise fees on other types of immigration benefit applications. This would unfairly spread the cost of administering the DREAM Act legalization program among applicants and petitioners who have abided by U.S. laws and force taxpayers to pay for amnesty. Taxpayers would also be on the hook for all Federal benefits the DREAM Act seeks to offer illegal aliens, including student loans and grants.

2. THE DREAM ACT PROVIDES SAFE HARBOR FOR ANY ALIEN, INCLUDING CRIMINALS, FROM BEING REMOVED OR DEPORTED IF THEY SIMPLY SUBMIT AN APPLICATION

Although DREAM Act proponents claim it will benefit only those who meet certain age, presence, and educational requirements, amazingly the Act protects ANY alien who simply submits an application for status no matter how frivolous. The bill forbids the Secretary of Homeland Security from removing “any alien who has a pending application for conditional status” under the DREAM Act—regardless of age or criminal record—providing a safe harbor for all illegal aliens. This loophole will open the floodgates for applications that could stay pending for many years or be litigated as a delay tactic to prevent the illegal aliens’ removal from the United States. The provision will further erode any chances of ending the rampant illegality and fraud in the existing system.

3. CERTAIN CRIMINAL ALIENS WILL BE ELIGIBLE FOR AMNESTY UNDER THE DREAM ACT

Certain categories of criminal aliens will be eligible for the DREAM Act amnesty, including alien gang members and aliens with misdemeanor convictions, even DUIs. The DREAM Act allows illegal aliens guilty of the following offenses to be eligible for amnesty: alien absconders (aliens who failed to attend their removal proceedings), aliens who have engaged in voter fraud or unlawfully voted, aliens who have falsely claimed U.S. citizenship, aliens who have abused their student visas, and aliens who have committed marriage fraud. Additionally, illegal aliens who pose a public health risk, aliens who have been permanently barred from obtaining U.S. citizenship, and aliens who are likely to become a public charge are also eligible.

4. ESTIMATES SUGGEST THAT AT LEAST 2.1 MILLION ILLEGAL ALIENS WILL BE ELIGIBLE FOR THE DREAM ACT AMNESTY. IN REALITY, WE HAVE NO IDEA HOW MANY ILLEGAL ALIENS WILL APPLY

Section 4(d) of the DREAM Act waives all numerical limitations on green cards, and prohibits any numerical limitation on the number of aliens eligible for amnesty under its provisions. The Migration Policy Institute estimates that the DREAM Act will make approximately 2.1 million illegal aliens eligible for amnesty.¹ It is highly likely that the number of illegal aliens receiving

¹ MPI’s July 2010 publication titled “DREAM vs. Reality: An Analysis of Potential DREAM Act Beneficiaries” (available at <http://www.migrationpolicy.org/pubs/DREAM-Insight-July2010.pdf>). According to MPI, 726,000 illegal aliens would be eligible for conditional legal status; of these roughly 114,000 would be eligible for permanent legal status after the six-year wait because they already have at least an associate’s degree. Another 934,000 potential

amnesty under the DREAM Act will be much higher than the estimated 2.1 million due to fraud and our inherent inability to accurately estimate the illegal alien population. Clearly, the message sent by the DREAM Act will be that if any young person can enter the country illegally, within 5 years, they will be placed on a path to citizenship.

5. ILLEGAL ALIENS WILL GET IN-STATE TUITION BENEFITS

The DREAM Act will allow illegal aliens to qualify for in-state tuition, even when it is not being offered to U.S. citizens and legally present aliens living just across state lines. Section 3 of the DREAM Act repeals Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) which prohibits giving education benefits to an unlawfully present individual unless that same benefit is offered to all U.S. citizens.

6. THE DREAM ACT DOES NOT REQUIRE THAT AN ILLEGAL ALIEN FINISH ANY TYPE OF DEGREE (VOCATIONAL, TWO-YEAR, OR BACHELOR'S DEGREE) AS A CONDITION OF AMNESTY

DREAM Act supporters would have you believe that the bill is intended to benefit illegal immigrants who have graduated from high school and are on their way to earning college degrees. However, the bill is careful to ensure that illegal alien high school drop-outs will also be put on a pathway to citizenship – they simply have to get a GED and be admitted to “an institution of higher education,” defined by the Higher Education Act of 1965.

Under the Higher Education Act, an “institution of higher education” includes institutions that provide 2-year programs (community colleges) and any “school that provides not less than a 1-year program of training to prepare students for gainful employment” (a vocational school). Within 8 years of the initial grant of status, the alien must prove only that they finished 2 years of a bachelor’s degree program, not that they completed any program or earned any degree.

If the alien is unable to complete 2 years of college but can demonstrate that their removal would result in hardship to themselves or their U.S. citizen or LPR spouse, child, or parent, the education requirement can be waived altogether.

7. THE DREAM ACT DOES NOT REQUIRE THAT AN ILLEGAL ALIEN SERVE IN THE MILITARY AS A CONDITION FOR AMNESTY, AND THERE IS ALREADY A LEGAL PROCESS IN PLACE FOR ILLEGAL ALIENS TO OBTAIN U.S. CITIZENSHIP THROUGH MILITARY SERVICE

DREAM Act supporters would have you believe that illegal aliens who don’t go to college will earn their citizenship through service in the U.S. Armed Forces. However, the bill does not require aliens to join the U.S. Armed Forces (the Army, Navy, Air Force, Marine Corps, or Coast Guard); instead it requires enlistment in the “uniformed services.” This means that aliens need only go to work for the National Oceanic and Atmospheric Administration or Public Health Service for 2 years to get U.S. citizenship. If the alien is unable to complete 2 years in the “uniformed services,” and can demonstrate that their removal would result in hardship to themselves or their U.S. citizen or LPR

beneficiaries are children under 18 who will age into conditional-status eligibility in the future. An additional 489,000 persons ages 18 to 34 would be eligible for conditional status under the law’s age and residency requirements.

spouse, child, or parent, the military service requirement can be waived altogether. Such claims will likely engender much litigation and place a huge burden on DHS.

Furthermore, under current law (10 USC § 504), the Secretary of Defense can authorize the enlistment of illegal aliens. Once enlisted in the U.S. Armed Forces, under 8 USC § 1440, these illegal aliens can become naturalized citizens through expedited processing, often obtaining U.S. citizenship in six months.

8. DESPITE THEIR CURRENT ILLEGAL STATUS, DREAM ACT ALIENS WILL BE GIVEN ALL THE RIGHTS THAT LEGAL IMMIGRANTS RECEIVE—INCLUDING THE LEGAL RIGHT TO SPONSOR THEIR PARENTS AND EXTENDED FAMILY MEMBERS FOR IMMIGRATION

Under current federal law, U.S. citizens have the right to immigrate their “immediate relatives” to the U.S. without regard to numerical caps. Similarly, lawful permanent residents can immigrate their spouses and children to the U.S. as long as they retain their status. This means illegal aliens who receive amnesty under the DREAM Act will have the right to immigrate their family members—including the parents who sent for or brought them to the U.S. illegally in the first place—in unlimited numbers as soon as they become U.S. citizens (6 to 8 years after enactment) and are 21 years of age.

Additionally, amnestied aliens who become U.S. citizens will be able to petition for their adult siblings living abroad to immigrate to the U.S., further incentivizing chain migration and potentially illegal entry into the United States (for those who don’t want to wait for the petition process overseas). When an adult brother or sister receives a green card, the family (spouse and children) of the adult sibling receive green cards as well.

9. CURRENT ILLEGAL ALIENS WILL GET FEDERAL STUDENT LOANS, FEDERAL WORK STUDY PROGRAMS, AND OTHER FORMS OF FEDERAL FINANCIAL AID

Section 10 of the DREAM Act allows illegal aliens amnestied under the bill’s provisions to qualify for federal student assistance under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) in the form of federal student loans (Stafford Loans, Perkins Loans, Federal Direct Stafford/Ford Loans), federal work-study programs, and other federal education services such as tutoring and counseling.

10. DHS IS PROHIBITED FROM USING THE INFORMATION PROVIDED BY ILLEGAL ALIENS WHOSE DREAM ACT AMNESTY APPLICATIONS ARE DENIED TO INITIATE THEIR REMOVAL PROCEEDINGS OR INVESTIGATE OR PROSECUTE FRAUD IN THE APPLICATION PROCESS

When an illegal alien’s DREAM Act amnesty application is denied, the bill states that the alien will revert to their “previous immigration status,” which is likely illegal or deportable. The bill, however, prohibits using any of the information contained in the amnesty application (name, address, length of illegal presence that the alien admits to, etc) to initiate a removal proceeding or investigate or prosecute fraud in the application process. Thus, it will be extremely hard for DHS to remove aliens who they now know are illegally present in the U.S., because illegal aliens will be able to claim that the legal action is a product of the amnesty application, and DHS will have the nearly impossible task of proving a negative.