

DIFFERING DREAMS: ESTIMATING THE UNAUTHORIZED POPULATIONS THAT COULD BENEFIT UNDER DIFFERENT LEGALIZATION BILLS

By Jeanne Batalova, Ariel G. Ruiz Soto, Sarah Pierce, and Randy Capps

As of mid-October 2017, a number of bills had been introduced in Congress by members of both political parties that would provide a pathway to legal status for eligible unauthorized immigrants brought to the United States as children, a population known as DREAMers. This Migration Policy Institute (MPI) fact sheet provides a comparison of major provisions of five legalization bills.¹ And drawing upon a unique MPI methodology that permits analysis and modeling of characteristics of the unauthorized population,² the fact sheet provides estimates of 1) the population meeting the minimum age at arrival and years of U.S. residence criteria to be included in the pool of unauthorized immigrants potentially eligible for legalization; 2) the subset that could gain conditional permanent resident status after achieving educational and other requirements under the various DREAM-type bills; and 3) the number of conditional status recipients who would be expected to progress to legal permanent residence (in other words get a green card) by fulfilling each bill's specific postsecondary education, military service, and/or employment requirements.³

Table 1. MPI Estimates of Potential DREAM Beneficiaries under Select 2017 Legalization Bills

	RAC Act	DREAM Act of 2017	American Hope Act	SUCCEED Act	Border Security and Deferred Action Recipient Relief Act
Meet minimum threshold based on initial age at arrival and length of U.S. residence criteria	2,408,000	3,245,000	3,571,000	2,035,000	2,408,000
Eligible for conditional permanent resident status	1,751,000	2,139,000	3,571,000	1,587,000	1,751,000
Eligible for legal permanent resident status	1,399,000	1,730,000	3,571,000	1,253,000	1,399,000

Notes: 1) *Minimum threshold* represents estimates of unauthorized immigrants potentially eligible to apply based on meeting only the age at arrival and years of U.S. residence criteria (the SUCCEED Act also sets a maximum age cap to apply); *conditional permanent resident status* indicates the subset who have earned a high school diploma or GED, are enrolled in high school, or have valid employment authorization, as well as those under age 18; *legal permanent resident status* indicates the subset of persons with conditional status who would be able to earn a postsecondary degree, or serve honorably in the military, or hold continuous employment for the specified number of years, if applicable.

2) Four legislative proposals (all but the SUCCEED Act) do not precisely specify the process by which recipients under age 18 could extend their conditional legal status, potentially leading to termination or lapse in legal status. In generating these estimates, the Migration Policy Institute (MPI) assumes that unauthorized immigrants under age 18 would be eligible to receive and renew conditional status, meeting education, employment, or military requirements in the future.

3) As written, the RAC Act, the DREAM Act, and the *Border Security and Deferred Action Recipient Relief Act* are silent about the process and timeline under which conditional permanent resident status recipients under age 18 could adjust to legal permanent residence. The assumption MPI uses here, after consultation with immigration attorneys versed in interpreting legislative statutes, is that these children would be able to adjust to legal permanent residence without facing the time limitations on conditional status that apply to those age 18 and over. If children under age 18 were not eligible to adjust to legal permanent residence, just 1.2 million adults would become eligible for legal permanent residence under the 2017 DREAM Act and 929,000 adults under the RAC Act and the *Border Security and Deferred Action Recipient Relief Act*. Because the *American Hope Act* placed no requirements beyond the age at entry and U.S. residence criteria in order to achieve conditional or permanent legal status, MPI assumes that all those under 18 would be able to adjust to legal permanent resident status at some point in the future.

Source: MPI analysis of U.S. Census Bureau data from the 2014 American Community Survey (ACS) and the 2008 Survey of Income and Program Participation (SIPP), with legal status assignments by James Bachmeier of Temple University and Jennifer Van Hook of The Pennsylvania State University, Population Research Institute.

Table 2. Key Qualifying Criteria to Meet Minimum Threshold and to Gain Conditional or Legal Permanent Residence under Select 2017 Legalization Bills

Criteria	RAC Act	DREAM Act of 2017	American Hope Act	SUCCEED Act	Border Security and Deferred Action Recipient Relief Act
MINIMUM THRESHOLD					
Age at arrival	Before 16	Before 18	Before 18	Before 16	Before 16
Length of continuous U.S. residence	Since January 1, 2012	4 years or more before the date of enactment	Since December 31, 2016	Since June 15, 2012	Since January 1, 2012
Lack of criminal record/Have good moral character	Yes	Yes	Yes	Yes	Yes
ELIGIBLE TO APPLY FOR CONDITIONAL PERMANENT RESIDENCE					
Minimum age	None	None	None	None	None
Maximum age	None	None	None	Under 31 (as of June 15, 2012)	None
Minimum educational attainment: 18 and older	U.S. high school diploma/GED	U.S. high school diploma/GED	N/A	U.S. high school diploma/GED	U.S. high school diploma/GED
Required school enrollment for those under 18 ¹	N/A	Yes	N/A	Yes	N/A
Lack of criminal record/Have good moral character	Yes	Yes	Yes	Yes	Yes
Special considerations for DACA beneficiaries	N/A	Yes	N/A	N/A	N/A
Special considerations for those with valid work authorization	Yes	N/A	N/A	N/A	Yes
Special considerations for those in military	N/A	N/A	N/A	Yes	Yes
Cannot receive public benefits in order to maintain or extend conditional status	N/A	N/A	N/A	Yes	Yes
Expedited removal if failed to maintain conditional status	N/A	N/A	N/A	Yes	N/A
Unable to sponsor family members until become U.S. citizen	N/A	N/A	N/A	Yes	N/A
Pass medical exam	Yes	Yes	N/A	Yes	Yes
Fulfill any outstanding federal tax liability	N/A	N/A	N/A	Yes	N/A
Length of conditional status to legal permanent residence	10 years (5-year initial; 5-year extension ²)	Up to 8 years ³	Up to 8 years ⁴	10 years (5-year initial or until beneficiary reaches age 18; 5-year extension)	10 years (5-year initial; 5-year extension ²)

Table 2. Key Qualifying Criteria to Meet Minimum Threshold and to Gain Conditional or Legal Permanent Residence under Select 2017 Legalization Bills (continued)

Criteria	RAC Act	DREAM Act of 2017	American Hope Act	SUCCEED Act	Border Security and Deferred Action Recipient Relief Act
ELIGIBLE TO APPLY FOR LEGAL PERMANENT RESIDENCE (I.E. GET A GREEN CARD)⁵					
Educational attainment	Enrolled in higher education during first year of conditional status and obtained an associate's degree or more in first 5 years of conditional status	An associate's degree or at least 2 years toward a bachelor's degree	N/A	Graduated from higher education institution or has attended a postsecondary school for at least 8 semesters in first 5 years of conditional status	Enrolled in higher education during first year of conditional status and obtained an associate's degree or more in first 5 years of conditional status
Active military service or honorable discharge	Enlisted in first 9 months, and served for at least 3 years in first 5 years of conditional status	At least 2 years of service	N/A	At least 3 years of service in first 5 years of conditional status	At least 3 years of service in first 5 years of conditional status
Duration of continuous employment	At least 4 years during first 5 years of conditional status	At least 3 years	N/A	At least 4 years during first 5 years of conditional status	At least 4 years during first 5 years of conditional status
Special considerations for DACA beneficiaries	N/A	N/A	Time with DACA benefits counts toward conditional status requirements	N/A	N/A
Lack of criminal record/Have good moral character	Yes	Yes	Yes	Yes	Yes
Meet certain naturalization requirements⁶	Yes	Yes	N/A	Yes	Yes
Fulfill outstanding federal tax liability	Yes	N/A	N/A	Yes	Yes

N/A = Not applicable because the legislation is silent on this particular issue.

- The overwhelming majority of unauthorized children under age 18 are enrolled in school and thus would qualify for conditional permanent residence under the DREAM and SUCCEED Acts. To estimate the population eligible for conditional status, MPI researchers assumed that those under age 18 who were not enrolled would be able to re-enroll in K-12 schools in order to meet this eligibility requirement. Additionally, four legislative proposals (all but the SUCCEED Act) do not precisely specify the process by which recipients under age 18 could extend their conditional legal status, potentially leading to termination or lapse in legal status. MPI assumes that unauthorized immigrants under age 18 would be eligible to receive and renew conditional status, meeting education, employment, or military requirements in the future.
- Individuals could apply for legal permanent residence as soon as they obtained an extension of their conditional permanent resident status.
- Could adjust immediately to legal permanent residence if LPR eligibility criteria are met.
- Could adjust to legal permanent residence after 3 years.
- As written, the RAC Act, the DREAM Act, and the *Border Security and Deferred Action Recipient Relief Act* are silent about the process and timeline for unauthorized immigrants under age 18 to adjust from conditional to legal permanent residence. The assumption MPI uses here, after consultation with immigration attorneys versed in interpreting legislative statutes, is that these children would be able to adjust to legal permanent residence without facing the time limitations on conditional status that apply to those age 18 and over. Because the *American Hope Act* places no additional requirements beyond the age at entry and U.S. residence criteria in order to achieve either conditional or permanent legal status, MPI assumes that all those under age 18 would be able to adjust to legal permanent residence at some point in the future.
- Have basic understanding of English and general knowledge of U.S. history and government.

Sources: MPI analysis of the legislative text of the *Recognizing America's Children Act*, HR 1468, 115th Cong., 1st sess., March 9, 2017, www.congress.gov/bill/115th-congress/house-bill/1468/text?q=%7B%22search%22%3A%5B%22recognizing+america%27s+children%22%5D%7D&r=1; DREAM Act of 2017, S. 1615, 115th Cong., 1st sess., July 20, 2017, www.congress.gov/115/bills/s/1615/BILLS-115s1615is.pdf; American Hope Act of 2017, HR 3591, 115th Cong., 1st sess., July 28, 2017, www.congress.gov/bill/115th-congress/house-bill/3591; SUCCEED Act, S. 1852, 115th Cong., 1st sess., September 25, 2017, www.congress.gov/bill/115th-congress/senate-bill/1852?q=%7B%22search%22%3A%5B%22SUCCEED+Act%22%5D%7D&r=1; and 2017 *Border Security and Deferred Action Recipient Relief Act*, S. 1937, 115th Cong., 1st sess., October 6, 2017, www.congress.gov/bill/115th-congress/senate-bill/1937?q=%7B%22search%22%3A%5B%22Border+Security+and+Deferred+Action+Recipient+Act%22%5D%7D&r=1.

Endnotes

- 1 This Migration Policy Institute (MPI) fact sheet focuses on bills introduced as of mid-October that would legalize eligible unauthorized immigrants brought to the United States as children. They five bills analyzed here are: the *Recognizing America's Children Act* (RAC Act), HR 1468, 115th Cong., 1st sess., March 9, 2017, www.congress.gov/bill/115th-congress/house-bill/1468/text?q=%7B%22search%22%3A%5B%22recognizing+america%27s+children%22%5D%7D&r=1; the DREAM Act of 2017, S. 1615, 115th Cong., 1st sess., July 20, 2017, www.congress.gov/115/bills/s1615/BILLS-115s1615is.pdf; the *American Hope Act of 2017*, HR 3591, 115th Cong., 1st sess., July 28, 2017, www.congress.gov/bill/115th-congress/house-bill/3591; the SUCCEED Act, S. 1852, 115th Cong., 1st sess., September 25, 2017, www.congress.gov/bill/115th-congress/senate-bill/1852?q=%7B%22search%22%3A%5B%22SUCCEED+Act%22%5D%7D&r=1; and the 2017 *Border Security and Deferred Action Recipient Relief Act*, S. 1937, 115th Cong., 1st sess., October 6, 2017, www.congress.gov/bill/115th-congress/senate-bill/1937?q=%7B%22search%22%3A%5B%22Border+Security+and+Deferred+Action+Recipient+Act%22%5D%7D&r=1. The RAC Act was introduced by Rep. Carlos Curbelo (R-FL). The DREAM Act was offered by Sens. Lindsey Graham (R-SC) and Richard Durbin (D-IL). The *American Hope Act* was introduced by Rep. Luis Gutierrez (D-IL). The SUCCEED Act was offered by Republican Sens. Thom Tillis (NC), James Lankford (OK), and Orrin Hatch (UT). The *Border Security and Deferred Action Recipient Relief Act* was introduced by Sen. Jeff Flake (R-AZ). The fact sheet does not examine bills, such as the BRIDGE Act or the SAFE Act, that would extend temporary protections to recipients of the Deferred Action for Childhood Arrivals (DACA) program; nor does it model legalization provisions included in significantly broader legislation, such as the *Save America Comprehensive Immigration Act of 2017*, or in which legal status would apply to only a fraction of the DREAMer population, such as the ENLIST Act.
- 2 For more detail on the assumptions and methodology underlying MPI estimates of the populations that could receive legal status under the DREAM Act-type bills pending in Congress, see Jeanne Batalova, Ariel G. Ruiz Soto, and Michelle Mittelstadt, *Protecting the DREAM: The Potential Impact of Different Legislative Scenarios for Unauthorized Youth*, revised (Washington, DC: MPI, 2017), www.migrationpolicy.org/research/protecting-dream-potential-impact-different-legislative-scenarios-unauthorized-youth; for a broader discussion of the unique methodology MPI has developed to assign legal status to the foreign-born population in U.S. Census Bureau datasets, which permits analysis and modeling of estimates and characteristics of unauthorized immigrants, see Jeanne Batalova, Sarah Hooker, and Randy Capps, *DACA at the Two-Year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action* (Washington, DC: MPI, 2014), www.migrationpolicy.org/research/daca-two-year-mark-national-and-state-profile-youth-eligible-and-applying-deferred-action.
- 3 MPI researchers developed these estimates based on the best data and methods available, but note certain limitations, among them the inability to account for disqualifying criminal convictions and “good moral character” criteria that could reduce the pool of potentially eligible beneficiaries. Modeling the future enrollment, employment, and other behaviors of individuals who are unauthorized is difficult, particularly given the fact that they might experience barriers to enrollment or employment in some states and localities. Also, the data used in this fact sheet are from 2014 and as such may overestimate the number of unauthorized immigrants present in 2017 who meet the age and years of U.S. residency requirements because some may have left the United States, adjusted their status, or died. Finally, to model the likelihood of obtaining conditional and then legal permanent resident statuses, the researchers used existing educational, employment, and military service data for broader groups of people, which may over- or underestimate the rates for the unauthorized population. To the degree possible, estimates were produced separately for Hispanic and non-Hispanic men and women to account for differences in educational attainment, military enlistment, and labor force participation. For the purposes of this fact sheet, only total population estimates are reported.

About the Authors



Jeanne Batalova is a Senior Policy Analyst at the Migration Policy Institute (MPI) and Manager of the MPI Data Hub, a one-stop, online resource that provides instant access to the latest facts, stats, and maps covering U.S. and global data on immigration and immigrant integration. She is also a Nonresident Fellow with the Migration Policy Institute Europe.

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