

Side by Side: DACA and Related 2017 Legislation

Entering its fifth year of existence, the Deferred Action for Childhood Arrivals (DACA) program has provided temporary immigration relief to nearly 800,000 people. Nevertheless, the program remains under threat. The Trump administration has made inconsistent statements about whether it will keep or do away with DACA. The program also faces a legal threat from states whose leaders argue that the president did not have the legal power to create the program. There are two legal cases in which developments could threaten the DACA program: *United States v. Texas*¹ and *Ari-zona Dream Act Coalition (ADAC) v. Brewer*.² More information

about potential scenarios and timelines related to these legal threats can be found at www.nilc.org/scenarios-legal-threats-to-daca/.

In response to this uncertainty, congressional representatives from both political parties have introduced legislation that would provide relief to certain undocumented people who came to the U.S. as minors. To go into effect, these bills must first pass Congress and be signed by the president. Then the U.S. Dept. of Homeland Security (DHS) would be charged with implementing their provisions (creating application forms, etc.).

The table below compares, in a general way, the DACA program and the bills the have been introduced in Congress, as they currently

stand. All but one of the bills would provide DACA-eligible and other undocumented people a path to U.S. citizenship.

NOTE: Links to each of the bills are available in the top row of the table and in the endnotes. To learn more detail about the bills, we encourage you to read them, since the table focuses only on selected information. More information is available in our summaries of the [BRIDGE Act](#) and the [Dream Act](#), as well as in a [side-by-side comparison](#) of DACA and the Dream Acts of 2010 and 2017.³ A list of *acronyms used in the table* is provided immediately after the table.

	DACA ⁴	BRIDGE Act (H.R. 496) ⁵	Recognizing America’s Children (RAC) Act (H.R. 1468) ⁶	2017 Dream Act (S. 1615 & H.R. 3440) ⁷	Hope Act (H.R. 3591) ⁸
Date of introduction	Announced on June 15, 2012	January 12, 2017	March 9, 2017	S. 1615 July 20, 2017 H.R. 3440 July 26, 2017	July 28, 2017
Sponsors & cosponsors	Not applicable (DACA was created as an executive action taken by the administration of President Barack Obama.)	Sponsored by Rep. Mike Coffman (R-CO) Cosponsored by 25 representatives (13 Democrat, 12 Republican)	Sponsored by Rep. Carlos Curbelo (R-FL) Cosponsored by 18 representatives (0 Democrat, 18 Republican)	S. 1615 Sponsored by Sens. Lindsay Graham (R-SC) and Richard Durbin (D-IL) Cosponsored by Sens. Jeff Flake (R-AZ), Charles Schumer (D-NY), Catherine Cortez Masto (D-NV), and Lisa Murkowski (R-AK) H.R. 3440 Sponsored by Rep. Lucille Royball-Allard (D-CA) Cosponsored by Reps. Ileana Ros-Lehtinen (R-FL), Zoe Lofgren (D-CA), and Mike Coffman (R-CO)	Sponsored by Rep. Luis Gutierrez (D-IL) Cosponsored by 116 representatives (116 Democrats)

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Age limits	<p>Must have been born after June 15, 1981.</p> <p>Must have entered the U.S. before age sixteen.</p> <p>Must be at least 15 years old at the time of applying for DACA.</p> <p>A person who is currently in deportation proceedings, has a deportation or voluntary departure order, and is not in immigration detention may apply for DACA even if they are not yet 15 years old.</p>	<p>Must have been born after June 15, 1981.</p> <p>Must have entered the U.S. before age 16.</p> <p>Must be at least 15 years old at the time of applying under BRIDGE.</p> <p>NOTE: Person under age 15 can apply if they are currently in deportation proceedings, have a final removal order, or have a voluntary departure order.</p>	<p>Must have entered the U.S. before age 16.</p>	<p>Must have entered the U.S. before age 18.</p> <p>Removal proceedings may be stayed for those who are at least 5 years old, who are enrolled in school, and who meet additional requirements.⁹</p>	<p>Must have entered the U.S. before age 18.</p>
Continuous presence in the U.S.	<p>Must have lived continuously in the U.S. since June 15, 2007.</p> <p>May have traveled outside the U.S. between June 15, 2007, and August 15, 2012, so long as the time outside the U.S. is considered brief, casual, and innocent.</p> <p>NOTE: DACA recipients may travel outside the U.S. only with advance parole, if they want to return.</p>	<p>Must have lived continuously in the U.S. from June 15, 2007, until the date of filing an application under the BRIDGE Act.</p> <p>Travel authorized by DHS (such as travel with <i>advance parole</i>) is not counted toward any period of departure from the U.S.</p>	<p>Must have lived continuously in the U.S. since January 1, 2012.</p> <p>May not have left the U.S. for any single period of more than 90 days or for any periods totaling 180 days. (If the failure to timely return is due to exceptional circumstances beyond the individual's control, DHS may extend these time limits.)</p> <p>NOTE: <i>Conditional permanent residency</i> (CPR) recipients may travel outside the U.S. for less than 180 days without having to apply for advance parole.</p>	<p>Must be continuously physically present in the U.S. for at least 4 years before the date of the bill's enactment.</p> <p>May not have left the U.S. for any single period of more than 90 days or for any periods totaling 180 days. (If the failure to timely return is due to exceptional circumstances beyond the individual's control, DHS may extend these time limits.)</p> <p>Travel authorized by DHS is not counted toward any period of departure from the U.S.</p>	<p>Must have been continuously present in the U.S. since December 31, 2016.</p> <p>May not have left the U.S. for any single period of more than 90 days or for any periods totaling 180 days. (If the failure to timely return is due to exceptional circumstances beyond the individual's control, DHS may extend these time limits.)</p> <p>Travel authorized by DHS is not counted toward any period of departure from the U.S.</p>
Physical presence in the U.S.	<p>Physically present in the U.S. on June 15, 2012, and at the time of filing an application under DACA.</p>	<p>Physically present in the U.S. on June 15, 2012, and at the time of filing an application under the BRIDGE Act.</p>	<p>Physically present in the U.S. on January 1, 2012.</p>	<p>Not applicable.</p>	<p>Not applicable.</p>

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Immigration status	<p>May <i>not</i> have had lawful immigration status on June 15, 2012. (Any lawful immigration status or parole obtained prior to June 15, 2012, must have expired before June 15, 2012.)</p> <p>A person may apply even if they have a final order of removal.</p>	<p>Must <i>not</i> have had lawful immigration status on June 15, 2012.</p> <p>A person may apply even if they are in removal proceedings or have a final removal or voluntary departure order. They may also apply if they are in immigration detention.</p>	<p>Not eligible if the person has a final order of exclusion, deportation, or removal, unless the person: (1) has remained in the U.S. after the order was issued, or (2) received the order before turning 18.</p>	<p>A person could qualify for CPR so long as the person has no lawful status. People with previous final orders of removal may apply. Also, people with DACA and <i>temporary protected status</i> (TPS) may apply.</p>	<p>A person could qualify for CPR if they have no lawful immigration status. People with previous and final orders of removal or voluntary departure or people in removal proceedings may apply.</p>
Education Track and Military Service Track guidelines	<p>Must have graduated or obtained a certificate of completion from high school, have obtained a <i>general education development</i> (GED) certificate, be an honorably discharged veteran of the Coast Guard or U.S. armed forces, or “be in school” on the date DACA application is submitted.</p>	<p>Currently in school or in an educational program aimed at obtaining a high school diploma or passing a GED exam; or, at the time of applying, have graduated or obtained a certificate of completion from high school, have obtained a GED certificate, or be an honorably discharged veteran of the Coast Guard or U.S. armed forces.</p>	<p>Education requirement for CPR—people 18 years old or older must meet one of the following requirements:</p> <ul style="list-style-type: none"> • admitted to higher education institution in the U.S.; or • earned a high school diploma (or a high school equivalency diploma), a commensurate alternative award from a public or private high school or secondary school, a state-recognized GED certificate; or • has valid work authorization <p>See “Process/path to naturalization” row, below, for additional requirements to become a <i>lawful permanent resident</i> (LPR).</p>	<p>Education requirement for CPR:</p> <ul style="list-style-type: none"> • admitted to an institution of higher education; or • earned high school diploma or commensurate alternative award from a public or private high school, or obtained a GED certificate; or • enrolled in a secondary school or in an education program assisting students in getting a regular high school diploma, recognized equivalent, or GED <p>See “Process/path to naturalization” row, below, for additional requirements to become an LPR.</p>	<p>Not applicable.</p>
Work Track option?	No	No	Yes	Yes. Can apply for LPR status after 8-year conditional period based on employment (see “Process/path to naturalization” row, below).	Not applicable.

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Good moral character and background check	<p>Has not been convicted of a felony offense.</p> <p>Has not been convicted of a “significant misdemeanor” offense or of three or more misdemeanor offenses.</p> <p>Must not pose a threat to national security or public safety</p> <p>Must pass a background check.</p>	<p>Has not been convicted of a felony offense.</p> <p>Has not been convicted of a “significant misdemeanor” offense or of three or more misdemeanor offenses.</p> <p>Must not pose a threat to national security or public safety</p> <p>Must pass a background check.</p>	<p>Must meet the moral character standard definition under INA section 101(f).</p> <p>Must not be inadmissible or deportable on certain grounds.¹⁰ Waivers may be granted for certain situations.¹¹</p> <p>Must not have been convicted of any state or federal offense punishable by a maximum term of imprisonment of more than one year, or any combination of state or federal offenses for which a sentence of imprisonment for a total of more than one year was imposed.</p> <p>Must pass a background check.</p>	<p>Has not been convicted of certain crimes.¹²</p> <p>Expunged convictions will not automatically disqualify the applicant from eligibility for CPR status.</p> <p>Inadmissibility for certain crimes may be waived.¹³</p> <p>Must pass a background check.</p>	<p>Has not been convicted of certain crimes.¹⁴</p> <p>Inadmissibility for certain crimes may be waived.¹⁵</p> <p>Must pass a background check.</p>
Process/path to naturalization	<p>No path to U.S. citizenship.</p> <p>A person applies for DACA by submitting the necessary forms and related evidence. They may apply for renewal every two years if the DACA program remains available.</p>	<p>No path to U.S. citizenship.</p> <p>People who are eligible for—or who already have—DACA may receive work authorization and <i>provisional protected presence</i> (PPP) for at most three years.</p> <p>People who do not have DACA would have to apply for PPP (under BRIDGE).</p> <p>People who have DACA would automatically have PPP until the date their DACA expires. Upon expiration, they could apply for PPP (under BRIDGE).</p>	<p>STAGE 1</p> <p>Apply for CPR status, valid for an initial period of 5 years. (See previous rows, above, for requirements.)</p> <p>STAGE 2</p> <p>Reapply to keep and extend CPR status for another 5 years. Applicants over age 18 must have fulfilled <i>one</i> of the following:</p> <ul style="list-style-type: none"> enrolled in an accredited institution of higher education in the U.S. within one year after obtaining CPR status, and remained enrolled; or been employed for a total period of 48 months during the 5-year period since obtaining CPR status; or enlisted in the armed forces within 9 months of obtaining CPR status 	<p>STAGE 1</p> <p>Apply for CPR status, valid for an initial period of 8 years. (See previous rows, above, for requirements.)</p> <p>DACA recipients acquire CPR status, unless they have engaged in conduct that would otherwise make them ineligible for DACA.</p> <p>STAGE 2</p> <p>People with CPR may apply for LPR status after the 8-year CPR period if they:</p> <p>Do not have certain criminal issues.</p> <p>Have not abandoned their residence in the U.S.</p> <p>Have done one of the following:</p> <ul style="list-style-type: none"> acquired a degree from an institution of higher education, or 	<p>STAGE 1</p> <p>Apply for CPR status, valid for a total of 8 years. (See previous rows, above, for requirements.)</p> <p>STAGE 2</p> <p>After 3 years with CPR, a person may apply for LPR status if they:</p> <ul style="list-style-type: none"> have not abandoned their residence in the U.S. have not committed certain criminal offenses pass a background check¹⁶ <p>DACA recipients may apply the time they have had DACA toward the 3-years-with-CPR requirement.</p>

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			<p>(A person who was dishonorably discharged is not eligible.)</p> <p>STAGE 3 Applicants who meet certain requirements may apply for LPR status immediately after receiving the second, 5-year CPR. They do not have to wait until the 5-year period ends. However, they must apply for LPR status within 10 years of receiving CPR status.</p> <p>STAGE 4 Applicants who get LPR status are eligible to apply for citizenship after 5 years with LPR status. CPR (5-10 years) → LPR (5 years) → Eligible for citizenship (total of at least 10 years)</p>	<ul style="list-style-type: none"> completed at least 2 years in a bachelor's degree program, <i>or</i> served for at least 2 years in the uniformed services or have been honorably discharged, <i>or</i> been employed for periods totaling at least 3 years, at least 75 percent of which time was working with valid employment authorization (if the person was not working, they must show that they were enrolled in school or an education program). A hardship exception may be available for people who do not meet at least one of the four requirements listed immediately above. <p>Pass a background check.</p> <p>STAGE 3 May apply for U.S. citizenship after being in LPR status for 5 years, presumably. CPR (8 years) → LPR (5 years) → Eligible for citizenship (total of 13 years)</p>	<p>STAGE 3 May apply for U.S. citizenship after 5 years in permanent resident (CPR and LPR) status. Time in CPR status will count toward 5-year permanent residence requirement for naturalization. CPR (3-8 years) → LPR (2+ years) → Eligible for citizenship (total of at least 5 years)</p>
Fees and back taxes	\$495, which consists of a \$410 fee for the work permit application and an \$85 fee for fingerprints. Fee waivers are not available, but fee exemptions are available in limited circumstances.	Fees determined by DHS. Fee exemptions will be available in very limited circumstances.	Fees determined by DHS. Satisfy any federal tax liability.	Fees determined by DHS, with fee exemption possibility for qualifying individuals.	Fees determined by DHS.

ACRONYMS USED IN THE TABLE

BRIDGE – **B**ar **R**emoval of **I**ndividuals **W**ho **D**ream and **G**row **O**ur **E**conomy
 CPR – conditional permanent residency
 DACA – Deferred Action for Childhood Arrivals

DHS – U.S. Department of Homeland Security
 GED – general education development (certificate)
 INA – Immigration and Nationality Act
 LPR – lawful permanent resident

PPP – provisional protected presence
 TPS – temporary protected status

NOTES

¹ On June 29, 2017, the attorneys general of Texas and nine other states sent a letter to the U.S. attorney general threatening to amend their lawsuit in *Texas v. U.S.* to challenge DACA’s legality unless “the Executive Branch agrees [by Sept. 5, 2017] to rescind the June 15, 2012 DACA memorandum and not to renew or issue any new DACA or Expanded DACA permits in the future....” Copy of letter available at https://www.texasattorneygeneral.gov/files/epress/DACA_letter_6_29_2017.pdf.

² For information on the ADAC case and how it may affect DACA, see *Brewer v. Arizona Dream Act Coalition (ADAC): What Comes Next?* (NILC, June 27, 2017), www.nilc.org/adac-what-comes-next/.

³ BRIDGE Act: www.nilc.org/faq-bridge-act/; Dream Act: www.nilc.org/dream-act-2017-summary-and-faq/; side-by-side: www.nilc.org/dream-acts-and-daca-compared/.

⁴ <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>.

⁵ BRIDGE stands for **B**ar **R**emoval of **I**ndividuals **W**ho **D**ream and **G**row **O**ur **E**conomy. Bill text at <https://www.congress.gov/bill/115th-congress/house-bill/496/text?q=%7B%22search%22%3A%5B%22bridge%22%5D%7D&r=5>.

⁶ Bill text at <https://www.congress.gov/bill/115th-congress/house-bill/1468/text?q=%7B%22search%22%3A%5B%22recognizing+America%27s+children+act%22%5D%7D&r=1>.

⁷ Senate bill text: <https://www.congress.gov/bill/115th-congress/senate-bill/1615?q=%7B%22search%22%3A%5B%22S+1615%22%5D%7D&r=1>; House bill text: <https://www.congress.gov/bill/115th-congress/house-bill/3440?q=%7B%22search%22%3A%5B%22HR+3440%22%5D%7D&r=1>.

⁸ Also known as the “American Hope Act of 2017.” Bill text at <https://www.congress.gov/bill/115th-congress/house-bill/3591?q=%7B%22search%22%3A%5B%22HR+3591%22%5D%7D&r=1>.

⁹ Removal proceedings either will be stayed or will not be initiated for people who are at least 5 years old; are enrolled in elementary school, secondary school, or an early childhood education program; and meet the requirements to be a conditional permanent resident (entered the U.S. before age 18, have been continuously present for four years, etc.). People who meet these requirements can apply for employment authorization.

¹⁰ Applicant must not be inadmissible under INA § 212(a)(1), (2), (3), (4), (6)(E), (8), (10)(A), (10)(C), or (10)(D); must not be deportable under INA § 237(a)(1)(E), (1)(G), (2), (4), (5), or (6).

¹¹ Waiver may apply for ground of inadmissibility under INA § 212(a)(1), (4) or (6) and for deportability under INA § 237(a)(1).

¹² Applicant must not be inadmissible under INA § 212(a)(2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D); state or federal offense (other than offenses due to undocumented status) punishable by more than 1 year in prison; 3 or more federal or state offenses, with convictions on different dates, and imprisonment for an aggregate of 90 days or more.

¹³ Inadmissibility for certain crimes may be waived for humanitarian purposes or family unity, or if the waiver is otherwise in the public interest. Waiver is available for crimes in INA § 212(a)(2), (6)(E), (6)(G), or (10)(D).

¹⁴ Applicant must not be inadmissible under INA § 212(a)(2), (3), (8), (10)(A), (10)(C), or (10)(E).

¹⁵ Waiver available for crimes for which immigration status is an essential element, a misdemeanor (or its equivalent), or any other offense that is not a crime of violence.

¹⁶ The person may apply for LPR status 6 months before the date of their 3-year period if the person expects to meet the requirements for LPR status.