

The Immigration Journal

The American Dream and Promise Act of 2021 (H.R. 6)

Section by Section Summary

March 18, 2021

TITLE I: The DREAM Act OF 2021

Sec. 102: Permanent Resident Status on a Conditional Basis for Certain Long-Term Residents Who Entered the United States as Children

- (a) Provides that aliens obtaining legal permanent residence (LPR) status under this Act shall generally be considered to be *conditional* legal permanent residents, except for aliens who immediately apply for LPR status because they have already met the requirements for removing the condition.
- (b) **Requires** DHS or the Attorney General to grant legal permanent status (green cards) on a conditional basis to aliens who are (p.3):
- Inadmissible or deportable
 - Subject to a grant of Deferred Enforced Departure;
 - Beneficiaries of Temporary Protected Status under INA 244;
 - The son or daughter of certain nonimmigrants (i.e. aliens who are temporarily admitted) in the following classes:
 - Aliens who have entered the U.S. pursuant to a treaty and are engaging in substantial trade pursuant to INA 101(a)(15)(E)(i);
 - Aliens who have entered the U.S. pursuant to a treaty to develop and direct an enterprise in which they have invested a substantial amount of money;
 - H-1B workers
 - L intra-company transfers pursuant to INA 101(a)(15)(L)

An alien listed above is eligible for conditional legal permanent residence, if s/he (p.4):

- Was continuously physically present in the U.S. since January 1, 2021;
- Was 18 years or younger on the date on which the alien entered the U.S. and has continuously resided in the U.S. since such entry;
- Is not inadmissible under the INA on the basis of:
 - Health grounds, pursuant to INA 212(a)(1), which is waivable;
 - Alien smuggling, pursuant to INA 212(a)(6)(E), waivable;
 - Abusing a student visa, pursuant to INA 212(a)(6)(G), waivable;
 - Permanently ineligible for citizenship, pursuant to INA 212(a)(8); or
 - Illegal voting pursuant to INA 212(a)(10), waivable.
- Has not participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and
- The alien:
 - Has been admitted to an institution of higher education (definition/location?)

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- Has been admitted to a community college or similar school at the post-secondary level;
- In the U.S., has obtained a high school diploma, GED certificate, or other similar educational credential; OR
- Is enrolled in secondary school or an education program assisting students in obtaining a high school diploma, GED certificate, or other similar educational credential.
- The alien establishes that he has registered under the Military Selective Service Act, if applicable (p.8); and
- Is not barred from receiving LPR status based on the criminal and national security grounds set forth below in paragraph (c). (p.4)

Unless the alien is exempted, requires DHS to charge a reasonable fee for processing the application, but the fee may not exceed \$495. (p.6-7)

Requires DHS to create a streamlined application for aliens with DACA who meet the requirements for renewal. (p.7)

Provides that DHS may not grant conditional LPR status unless the alien has submitted the required biometric and biographic in accordance with procedures established by DHS, pursuant to Section 302. (p.7-8)

- (c) An alien is ineligible to apply for conditional LPR status or permanent LPR status under this Act if any of the following apply (p.8-9):
- The alien is inadmissible due to certain criminal activity/convictions, pursuant to INA 212(a)(2). However, DHS may waive:
 - Crimes involving moral turpitude;
 - Drug offenses;
 - Drug trafficking crimes; and
 - Prostitution crimes (including procuring visas for the purpose of prostituting victims)
 - The alien is inadmissible on national security grounds, pursuant to INA 212(a)(3);
 - The alien has been convicted of:
 - Any felony offense, excluding immigration-based crimes and minor traffic offenses;
 - Three or more misdemeanors, excluding:
 - Immigration-based crimes,
 - minor traffic offenses,
 - offenses related to the possession of marijuana that are no longer prosecutable under state law; or
 - civil disobedience offenses without violence;
 - Misdemeanor domestic violence, unless the alien demonstrates that the crime was related to the alien having been:

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- A victim of domestic violence, sexual assault, stalking, or child abuse or neglect, abuse or human trafficking;
- Battered or subjected to extreme cruelty; or
- A victim of criminal activity described under the U visa category (rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, stalking, *inter alia*.)
- DHS may waive consideration of one misdemeanor offense (regardless of what it is) if the alien has not been convicted of any offense within the five years prior to applying for LPR status. (p.10)
- DHS may also waive consideration of two misdemeanor offenses (regardless of what they are) if the alien has not been convicted of any offense within the ten years prior to application for LPR status. (p.10)
- The DHS Secretary, “*as a matter of non-delegable discretion,*” may provisionally deny an application for legal permanent residence if the Secretary, based on “clear and convincing evidence, which shall include credible law enforcement information,” determines that the alien (p.11):
 - Is a public safety threat, meaning the alien:
 - Excluding marijuana possession, immigration crimes, or civil disobedience without violence, has been convicted of a misdemeanor offense punishable by more than 30 days imprisonment; or adjudicated delinquent in a state or local juvenile court which resulted an order placing the alien in a secure facility; and
 - The alien poses a significant and continuing threat to public safety related to such conviction or adjudication. In making this determination, the Secretary shall consider:
 - The recency of the conviction or adjudication;
 - The length of the sentence or placement;
 - The nature and seriousness of the conviction or adjudication; and
 - Any mitigating factors
 - Participated in gang offenses within the five years preceding his/her application. However, state or federal gang databases shall not be allowed to establish such participation.
 - The Secretary must provide written notice to the applicant of the intent to provisionally deny the application by certified mail, which shall include (p.13):
 - A specific articulation of all grounds for the preliminary determination, including the evidence used to support the determination; and
 - A 90-day opportunity for the alien to respond.
 - The Secretary must provide a second notice not more than 30 days after the first notice, containing the same provisions. (p.14)
 - If an alien provides good cause (apparently at any point in time) for failure to contest a discretionary provisional denial, including a failure to receive notice, the Secretary *is required to*, upon a motion filed by the alien, reopen an application for adjustment of status and provide an opportunity to respond. (p.14-15)

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- If after proper notice is given and the Secretary provisionally denies an application for LPR status, an illegal alien may still challenge the Secretary's denial in federal court. (p.15)
 - Judicial review shall be de novo and the court shall remand to the DHS secretary with instructions on how to render a final decision on the application (p.15-16);
 - Illegal aliens appealing a denial under this section "*shall be represented by counsel*" in accordance with procedures established by the DOJ, which shall be funded by fees received through an additional surcharge collected on fees imposed under this Act (unless such fees are waived). There is no provision for how legal representation will be funded if the fees collected are insufficient. (p.16)

(d) *Prohibits* DHS or the DOJ from commencing or continuing with deportation proceedings against aliens 18 or younger who have met all but the educational requirements and *requires* DHS to provide such aliens with "a reasonable opportunity" to meet such educational requirements. Depending on how "reasonable" is interpreted, this provision could allow infants illegally brought into the U.S. in December 2020 over a decade to enter high school and then apply for LPR status. (p.17-18)

(e) Requires DHS to stop processing an application for adjustment of status upon receiving a request from an alien to withdraw it. This would presumably require any fraud or national security investigation to cease as well, preventing derogatory information from being placed into the alien's file. Also provides that such withdrawal shall not prejudice the alien from applying for any immigration benefit. (p.18)

Sec. 103 Terms of Conditional Permanent Resident Status

- (a) Provides that conditional permanent resident status is valid for 10 years, unless extended by DHS, and is subject to revocation. (p.18) There appears to be no limit on the number or duration of extensions DHS could make for aliens with conditional LPR status, potentially allowing them to remain in the U.S. indefinitely with legal status without anything more than simply enrolling in high school or enrolling in a GED course.
- (b) Requires DHS to notify the alien of the requirements to have the condition removed. (p.18)
- (c) Authorizes DHS to revoke conditional LPR status *only if* DHS determines (p.19):
 - That the alien becomes ineligible pursuant to the criminal and national security requirements above (many of which may be waived); **AND**
 - Prior to revocation, provides the alien:
 - Notice of the proposed revocation; and
 - The opportunity for a hearing to contest the proposed revocation. (p.19)

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- (d) Provides that an alien whose conditional LPR status is revoked or expires shall return to the immigration status that the alien had immediately before receiving conditional permanent resident status. (p.19) There is no requirement that DHS initiate deportation proceedings against aliens who were in the U.S. illegally when they obtained conditional LPR status.

Sec. 104 Removal of Condition

- (a) **Requires** DHS to remove the condition on an alien's permanent resident status received under this law and grant the alien LPR status if the alien (p.19-21):
- Is not ineligible pursuant to the criminal and national security requirements above (many of which may be waived);
 - Has not abandoned residence in the U.S. during the alien's conditional LPR status;
 - Satisfies one of the following:
 - Has obtained a degree from an institution of higher education;
 - Has completed at least 2 years, in good standing of a bachelor's degree program or recognized postsecondary credential from a community or technical college;
 - Has served at least 2 years in the Uniformed Services (and if discharged, honorably); or
 - Demonstrates earned income for at least 3 years in the aggregate, during 75 percent of which time the alien has had valid employment authorization.
 - Note that aliens who have enrolled at an institution of higher education or a community or technical college may apply their time of enrollment towards satisfying this requirement.
 - Demonstrates a basic knowledge of English and civics, pursuant to Section 312 of the INA, except in case of disability. (p. 22)

Requires DHS to remove the condition without satisfaction of the education/work requirement if the alien demonstrates "*compelling circumstances for the inability*" to do so **and also** demonstrates (p.21):

- The alien has a disability;
- The alien is a full-time caregiver; or
- The removal of the alien from the U.S. would result in "*hardship to the alien*" or to the alien's spouse, parent or child who is a national or a legal permanent resident of the U.S.

Authorizes DHS to impose an application fee for removing the condition commensurate with the cost of processing the application.

- (b) Provides that for purposes of acquiring citizenship, the time an alien spends as a conditional LPR counts towards the residency requirement of five years. However, provides that an alien may not apply for citizenship while still in conditional LPR status. (p.22-23)
- (c) Allows aliens with conditional LPR status to apply to remove the condition at any time the alien meets the requirements for doing so. This includes making an initial application for LPR status instead of conditional LPR status. (p.23)

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(d) **Requires** DHS or DOJ to grant an alien LPR status if, at the time of initial application, the alien (p.23):

- Demonstrates eligibility for conditional LPR status; and
- Subject to the hardship exemption, demonstrates satisfaction of the education/work requirement and English/civics requirement for removal of the condition.

Provides that the requirement to conduct criminal and national security background checks shall not be construed to require DHS to do more than one round of checks on such alien. (p.24)

Provides that aliens obtaining LPR status under this provision shall be required to pay the associated fee (subject to applicable exemptions), but shall not be required to pay the fee for conditional LPR status.

Sec. 105: Restoration of the State Option to Determine Residency for Purposes of Higher Education Benefits

- (a) Repeals the section of law that essentially prohibited states from providing illegal aliens in-state tuition benefits based on residency (8 USC 1623). This means that states will not only be allowed to give **all** illegal aliens in-state tuition **on a permanent basis**, not simply DACA recipients or aliens who legalize under this Act. (p.25)
- (b) Provides that such repeal is **retroactive** to the date of its passage (1996), which suggests states may go back and provide partial refunds to illegal alien students who resided in the state but paid out of state tuition. (p.25)

TITLE II: American Promise Act of 2021

Sec. 202: Adjustment of Status for Certain Nationals of Certain Countries Designated for Temporary Protected Status or Deferred Enforced Departure

Sec. 1104 The American Promise Act

- (a) **Requires** DHS or DOJ to cancel the removal of and grant lawful permanent status (green cards) to an alien who (p.26):
- Applies for adjustment and submits the required documents no later than three years after enactment;
 - Has been continuously physically present in the U.S. for at least three years (p.27); and
 - Is not inadmissible on the basis of:
 - Health grounds (communicable diseases), pursuant to INA 212(a)(1)(waivable);
 - Convictions for drug crimes, pursuant to INA 212(a)(2)(waivable);
 - Convictions for crimes of moral turpitude, pursuant to INA 212(a)(2)(waivable);
 - Drug trafficking, pursuant to INA 212(a)(2)(waivable);

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- Prostitution Offenses, including crimes akin to human trafficking (securing visas in order to prostitute victims) pursuant to INA 212(A)(2)
- National security grounds, pursuant to INA 212(a)(3)
- Being a stowaway, pursuant to INA 212(a)(6)(D)(waivable)
- Alien smuggling, pursuant to INA 212(a)(6)(E)(waivable);
- Receiving a civil penalty for document fraud, pursuant to INA 212(a)(6)(F)(waivable);
- Abusing a student visa, pursuant to INA 212(a)(6)(G)(waivable);
- Permanent ineligibility for citizenship, pursuant to INA 212(a)(8);
- Practicing polygamy, pursuant to INA 212(a)(10)
- International child abduction, pursuant to INA 212(a)(10)
- Illegal voting, pursuant to INA 212(a)(10)(waivable)
- Relinquishing citizenship to avoid taxation, pursuant to INA 212(a)(10)

(b) Provides that an alien is eligible for legal permanent residence under this Act if the alien either (p.26-27):

- Qualifies through TPS, meaning the alien:
 - Is national of a country with TPS designation pursuant to INA 244(b) as of January 1, 2017;
 - Obtained or was eligible to obtain temporary protected status (even if the alien did not in fact receive it) on January 1, 2017, even if the alien:
 - Did not register for TPS, or
 - Did not annually register with DHS as required by law and his/her TPS status was revoked; and
 - Did not engage in conduct that would make him ineligible for TPS status.
- Qualifies through Deferred Enforced Departure (DED), meaning the alien:
 - Was eligible for Deferred Enforced Departure as of January 20, 2021; and
 - Did not engage in conduct since that date that would render the alien ineligible for DED.

(c) DHS may waive certain grounds of ineligibility so that an alien may receive a green card under this Act (see above). (p.27-28) However, DHS may not waive inadmissibility based on a conviction if the conviction would otherwise make the alien ineligible for TPS under INA 244(c)(2)(B). (p.28) An alien is ineligible for TPS under INA 144(c)(2)(B) if the alien:

- Has a conviction for any felony or two or more misdemeanors committed in the U.S., or
- Is ineligible for asylum under 8 USC 1158(b)(2)(A) because:
 - The alien participated in the persecution of any person;
 - The alien has a conviction for a particularly serious crime and constitutes a danger to the community;
 - There are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the U.S. prior to the alien's arrival;
 - There are reasonable grounds for regarding the alien as a danger to national security;

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- With certain exceptions, the alien is has engaged in, is likely to engage in, or has incited terrorist activities, pursuant to INA 212(a)(3); or
- The alien was firmly resettled in another country prior to arriving in the U.S.

(d) Applications under the American Promise Act of 2021 (p.28-29)

- Requires DHS to charge an applicant for conditional LPR status a reasonable fee commensurate with the cost of processing the application, not to exceed \$1,140.
- Requires DHS to complete background checks as required by Section 302 before granting LPR status.
- **Requires** DHS to cease processing of an application upon receiving an alien’s notice to withdraw the application. Provides that such withdrawal shall not prejudice any future applications by the alien for immigration benefits under this Act or the INA.

Sec. 203 Clarification

- Amends INA Section 244(f) to provide that aliens with TPS status shall be considered as having “been inspected and admitted into the U.S.” This amendment is critical because under existing law (INA 245(c)) an alien generally cannot apply for legal permanent residence unless sh/e he has been inspected and admitted. See [Congressional Research Service](#) for more background information. (p.29)

TITLE III: General Provisions

Sec. 301 Definitions

Provides that the definition of a conviction does not include a judgement that has been expunged, set aside, or resulted in a “rehabilitative disposition, or the equivalent.” (p.32)

Sec. 302 Submission of Biometric and Biographic Data; Background Checks

- (a) Prohibits DHS from granting an alien conditional or permanent LPR status unless the alien submits biometric and biographic data as required. (p.32)
- (b) Requires DHS to use the biometric, biographic, and other data DHS determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factors that would render the alien ineligible for adjustment of status under this Act. Prohibits DHS from granting conditional or permanent LPR status unless such checks are completed to the satisfaction of the Secretary.

Sec. 303 Limitation on Removal; Application and Fee Exemption; and Other Conditions on Eligible Individuals.

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- (a) **Prohibits** DHS from removing an alien “who appears to be prima facie eligible” for lawful status under this Act until “a final decision establishing ineligibility” is rendered. (p.33)
- (b) **Requires** DHS to allow aliens with final removal/deportation orders to apply. (p.33)
- If DHS approves the application, DHS is required to cancel the order of removal.
 - IF DHS renders a final decision to deny the application, the removal order shall only be effective **after all available administrative and judicial review has been exhausted**.
- (c) Authorizes DHS to waive application fees if the applicant:
- Is 18 or younger;
 - Has annual income less than 150% of the federal poverty line;
 - The applicant is in foster care or “otherwise lacks any parental or familial support”; or
 - Cannot care for himself/herself because of a serious, chronic disability. (p.34)
- (d) Provides that an alien is eligible to apply for advance parole (i.e. permission to travel outside of the U.S.) from the day s/he files an application, regardless of whether anyone has conducted a review of the application or any of the background checks have been initiated or completed. (p. 34)
- Provides that 101(g) shall not apply to aliens granted advance parole under this Act, which appears to be designed to ensure that aliens with TPS who have standing orders of removal and have left the country may, under this Act, still return to the U.S. (and presumably apply for legal status).
- (e) **Requires** DHS to grant employment authorization to aliens who:
- Have a stayed order of removal pursuant to this Act;
 - May not be removed/deported pursuant to this act; or
 - Have applications pending under this Act;
- This provides a huge incentive for aliens to file fraudulent or frivolous applications because DHS is required by law to grant applicants work authorization. (p.35)

Sec. 304 Determination of Continuous Presence and Residence (p.35)

- (a) Provides that continuous presence and continuous residence (required for benefits under this Act) shall not be interrupted if DHS initiates deportation proceedings by issuing the alien a notice to appear (NTA).
- (b) Provides that the alien has failed to maintain continuous presence if the alien has departed from the U.S. for more than 90 days or for any periods which, in the aggregate, exceed 180 days.
- Provides that the alien has failed to maintain continuous residence if the alien has departed from the U.S. for any period exceeding 180 days, unless the alien establishes

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- to the satisfaction of DHS that the alien did not in fact abandon residence in the U.S. during that period.
- Provides that DHS may extend these periods for an alien who demonstrates that the failure to timely return to the U.S. was due to “extenuating circumstances beyond the alien’s control,” including:
 - Serious illness of the alien;
 - Death or serious illness of a parent, grandparent, sibling or child of the alien;
 - Processing delays associated with the application process for a visa or other travel document; or
 - Restrictions on international travel due to Covid-19.
 - Provides that any period of travel outside the U.S. authorized by DHS may not count toward any period of departure.

(c) Waiver of Physical Presence (p.37)

- **Authorizes DHS to waive the physical presence requirement for either Dream Act or TPS-based applications for aliens who were:**
 - **Deported or otherwise departed (i.e. voluntarily) on or after Jan. 20, 2017; and**
 - **Physically present in the U.S. for at least 4 years prior to such removal or departure.**
- **Requires DHS to work with the State Department to establish a process for such aliens to apply for outside the U.S. if they would have been eligible but for the deportation or departure.**

(d) Provides that nothing in this Act may be construed to apply a numerical limitation on the number of aliens who may be granted LPR status under this Act. (p.37-38)

Sec. 306 Availability of Administrative and Judicial Review (p.38)

- (a) Requires DHS to establish a process for administrative review of denials within 30 days of enactment.
- (b) Authorizes aliens to seek judicial review (i.e. review in U.S. federal courts) to appeal a denial of status or revocation of status under this Act.
- (c) Stays of Removal (p.38)
- **Prohibits** DHS from removing an alien seeking administrative or judicial review under this Act until a final decision is rendered establishing the alien is ineligible for LPR status under this Act. This provision provides a huge incentive for every alien to appeal and tie up administrative and court proceedings, because the alien has work authorization and may not be deported until the alien exhausts all appeal options s/he wishes to pursue.
 - Authorizes DHS to deport aliens during administrative or judicial review **only if** such removal is based on criminal or national security grounds described in this Act.

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- *Requires* a deported alien to “promptly return” a deported alien if DHS’s denial is reversed (apparently regardless of the grounds for deportation).

Sec. 307 Documentation Requirements (p.39)

(a) Allows an alien to establish identity using the following documents (p.40):

- A passport or national identity document from the alien’s country of origin that includes the alien’s photograph or fingerprint;
- The alien’s birth certificate and an identity card that includes the alien’s name and photograph;
- A school ID card that includes the alien’s name and photograph, and school records showing the alien’s name and that the alien is or was enrolled in that school;
- A Uniformed Services ID card issued by the Department of Defense;
- Any immigration or other document issued by the U.S. government bearing the alien’s name and photograph;
- A state-issued ID card bearing the alien’s name and photograph;
- Any other evidence determined to be credible by the Secretary.

(b) Allows an alien to establish (1) entry before the age of 18; (2) continuous physical presence or (3) continuous residence through the following documents (p.40):

- Passport entries, including admission stamps;
- Any document from DOJ or DHS noting the alien’s date of entry into the U.S.;
- Records from any educational institution that the alien has attended in the U.S.;
- Records of service from the Uniformed Services;
- Official records from a religious entity confirming the alien’s participation in a religious ceremony;
- A birth certificate from a child who was born in the United States;
- Hospital or medical records showing treatment or hospitalizations and the date;
- Automobile license receipts or registration;
- Deeds, mortgages, or rental agreement contracts;
- Rent receipts or utility bills bearing the alien’s name or the name of an immediate family member of the alien and the alien’s address;
- Tax receipts;
- Insurance policies;
- Remittance records, including copies of money orders;
- Travel records;
- Dated bank transactions;
- Two or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien’s physical presence in the U.S. that contain;
 - The name, address, and telephone number of the affiant; and
 - The nature and duration of the relationship between the affiant and alien.
- Any other evidence determined to be credible by DHS.

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- (c) Allows aliens to establish admission to an institution of higher education by submitting a document from the institution certifying that the alien:
- Has been admitted to the institution, or
 - Is currently enrolled as a student.
- (d) Allows aliens to establish acquisition of a degree from a institution of higher education in the U.S. by submitting a diploma or other document from the institution stating that the alien has received such degree.
- (e) Allows aliens to establish acquisition of a high school diploma (or its equivalent permitted by this Act) by submitting the following documents:
- A diploma, certificate of completion, or other alternate award;
 - A high school equivalency diploma or certificate recognized under state law;
 - Evidence that the alien passed a state-authorized exam, including the GED test;
 - Evidence that the alien successfully completed a community college or tech school program, such as a certification, certificate, or similar award;
 - Evidence that the alien obtained a recognized post-secondary credential;
 - Any other evidence determined by DHS to be credible.
- (f) Allows aliens to establish enrollment in a high school by submitting school records demonstrating:
- The name of the school; and
 - The alien's name, periods of attendance, and current grade or educational level.
- (g) Allows aliens to establish they are exempt from fees under this act by submitting:
- Proof of identity that establishes the alien is 18 or younger;
 - Employment records or other records of earned income, including records maintained by the Social Security Administration, the IRS, or any other federal state or local government agency.
 - Bank records; or
 - At least two sworn affidavits from individuals not related to the alien who have direct knowledge of the alien's work and income that contain:
 - The affiant's name address and telephone number; and
 - The nature and duration of the relationship between the affiant and the alien.
 - Allows aliens to establish foster care, lack of familial support, or serious, chronic disability by submitting at least two sworn affidavits from individuals not related to the alien who have direct knowledge of the circumstances that contain:
 - A statement that the alien is in foster care, otherwise lacks any parental or other familial support or has a serious, chronic disability;
 - The name, address, and telephone, number of the affiant; and
 - The nature and duration of the relationship between the affiant and the alien.

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- (h) Allows aliens to establish a hardship exception by submitting at least two sworn affidavits non-relatives who have direct knowledge of the circumstances warranting the exemption that contain:
- The name, address, and telephone number of the affiant; and
 - The nature and duration of the relationship between the affiant and the alien.
- (i) Allows aliens to establish service in the Uniform Services for at least 2 years (and an honorable discharge, if applicable) by submitting:
- A DOD form DD-214;
 - A National Guard Report of Separation and Record of Service form 22;
 - Personnel records for such service from the appropriate Uniformed Service; or
 - Health records from the appropriate Uniformed Service.
- (j) Allows aliens to satisfy the earned income requirement by submitting records that (p.47):
- Establish compliance with such requirement; and
 - Have been maintained by the Social Security Administration, the IRS, or any other Federal, State or local government agency; or
 - Two types of “reliable documents” that provide evidence of employment or other forms of earned income, including:
 - Bank records;
 - Business records;
 - Employer or contractor records;
 - Records of a labor union, day labor center, or organization that assists workers in employment;
 - Sworn affidavits from non-relatives who have direct knowledge of the alien’s work that contain:
 - The name, address, and telephone number of the affiant; and
 - The nature and duration of the relationship between the affiant and the alien
 - Remittance records; or
 - Any other evidence determined by DHS to be credible.
- (k) Authorizes DHS to issue regulations to prohibit or restrict the use of a document or a class of documents if the Secretary determines that they do not reliably establish identity or that LPR status is being obtained fraudulently “to an unacceptable degree.” (p.48)

Sec. 308 Rulemaking

- (a) Requires DHS to issue interim final regulations implementing this Act within 90 days of enactment that allow eligible aliens to immediately apply for relief. Provides that such rules shall be effective immediately upon publication, on an interim basis, but may be subject to change after public notice and comment. Requires DHS to finalize such rules no later than 180 days after the date of publication. (p.49)

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(b) Provides that the paperwork reduction act does not apply to the any action to implement this Act. (p.50)

Sec. 309 Confidentiality of Information (p.49)

(a) Prohibits DHS from disclosing or using information provided in applications filed under this act or in requests for DACA – regardless of its nature -- for the purpose of immigration enforcement. This includes information collected through appellate and judicial review. (p.49)

(b) Prohibits DHS from referring an applicant to ICE or CBP based solely on information provided in an application submitted under this act or for DACA – regardless of the reason for referral or information provided. (p.49-50)

(c) Provides that DHS may share information provided in an application:

- For assistance in the consideration of an application
- To identify or prevent fraudulent claims;
- For national security purposes; or
- For the investigation or prosecution of any felony offense not related to immigration status.

(d) Provides that any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

Sec. 310 Grant Program to Assist Eligible Applicants (p.50-52)

(a) Requires USCIS to establish a grant program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this Act by providing with services under paragraph (b);

(b) Permitted services for the grant program include:

- Providing information to the public regarding the eligibility and benefits of permanent resident status
- Providing assistance to aliens submitting applications for adjustment of status under this Act, including:
 - Screening prospective applicants to assess their eligibility;
 - Completing applications and petitions, including providing assistance in obtaining requisite documents and evidence; and
 - Providing any other assistance that DHS or grantee considers “useful or necessary” to apply for adjustment of status under this Act;
- Providing assistance and instruction to individuals:
 - On the rights and responsibilities of U.S. citizenship;
 - In civic and English as a second language;
 - In preparation for the GED test; and

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○ In applying for adjustment of status and U.S. citizenship.

- (c) Authorizes the appropriation of such sums as may be necessary for FY 2022 through FY 2032 to carry out this section. Provides that any amounts appropriated shall be available until appropriated.

Sec. 311 Provisions Affecting Eligibility for Adjustment of Status (p.52)

Provides that an alien's eligibility for LPR status under this Act shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

Sec. 312 Supplementary Surcharge for Appointed Counsel (p.53)

- (a) Provides that in any case in which a fee is charged pursuant to this Act, an additional surcharge of \$25 shall be imposed and collected for the purpose of providing appointed counsel to applicants seeking judicial review of a provisional denial of an application.
- (b) Establishes an account in the General Fund of the Treasury called the "Immigration Counsel Account" and provides that fees collected by the surcharge shall be deposited into it and remain available until expended by providing counsel pursuant to this Act.
- (c) Requires DHS to submit a biennial report to Congress concerning the status of the account, including balances, and recommendations to adjust the surcharge to adequately cover the costs of counsel.

Sec. 313 Annual Report on Provisional Denial Authority (p.54)

Requires DHS to submit an annual report to Congress detailing the number of applicants that receive:

- A provisional denial;
- A final denial under this Act without judicial review;
- A final denial under this Act after seeking judicial review; and
- An approval under this Act after seeking judicial review. (p.55)