

AMENDMENT TO SENATE AMENDMENTS TO H.R.

5281

OFFERED BY MR. BERMAN OF CALIFORNIA

At the end of the matter proposed to be inserted by the Senate amendment numbered 3, add the following:

1 SEC. 4. SHORT TITLE.

2 Notwithstanding section 1, sections 5 through 16 of
3 this Act may be cited as the “Development, Relief, and
4 Education for Alien Minors Act of 2010” or the “DREAM
5 Act of 2010”.

6 SEC. 5. DEFINITIONS.

7 In this section and sections 6 through 16 of this Act:

8 (1) IN GENERAL.—Except as otherwise specifi-
9 cally provided, a term used in this section and sec-
10 tion 6 through 16 of this Act that is used in the im-
11 migration laws shall have the meaning given such
12 term in the immigration laws.

13 (2) ARMED FORCES.—The term “Armed
14 Forces” has the meaning given the term “armed
15 forces” in section 101(a) of title 10, United States
16 Code.

17 (3) CONDITIONAL NONIMMIGRANT.—

1 (A) DEFINITION.—The term “conditional
2 nonimmigrant” means an alien who is granted
3 conditional nonimmigrant status under this Act.

4 (B) DESCRIPTION.—A conditional non-
5 immigrant—

6 (i) shall be considered to be an alien
7 within a nonimmigrant class for purposes
8 of the immigration laws;

9 (ii) may have the intention perma-
10 nently to reside in the United States; and

11 (iii) is not required to have a foreign
12 residence which the alien has no intention
13 of abandoning.

14 (4) IMMIGRATION LAWS.—The term “immigra-
15 tion laws” has the meaning given such term in sec-
16 tion 101(a)(17) of the Immigration and Nationality
17 Act (8 U.S.C. 1101(a)(17)).

18 (5) INSTITUTION OF HIGHER EDUCATION.—The
19 term “institution of higher education” has the
20 meaning given such term in section 102 of the High-
21 er Education Act of 1965 (20 U.S.C. 1002), except
22 that the term does not include an institution of high-
23 er education outside the United States.

1 **SEC. 6. CANCELLATION OF REMOVAL OF CERTAIN LONG-**
2 **TERM RESIDENTS WHO ENTERED THE**
3 **UNITED STATES AS CHILDREN.**

4 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-
5 DENTS WHO ENTERED THE UNITED STATES AS CHIL-
6 DREN.—

7 (1) IN GENERAL.—Notwithstanding any other
8 provision of law and except as otherwise provided in
9 this section and sections 7 through 16 of this Act,
10 the Secretary of Homeland Security may cancel re-
11 moval of an alien who is inadmissible or deportable
12 from the United States, and grant the alien condi-
13 tional nonimmigrant status, if the alien dem-
14 onstrates by a preponderance of the evidence that—

15 (A) the alien has been physically present in
16 the United States for a continuous period of
17 not less than 5 years immediately preceding the
18 date of the enactment of this Act and was
19 younger than 16 years of age on the date the
20 alien initially entered the United States;

21 (B) the alien has been a person of good
22 moral character since the date the alien initially
23 entered the United States;

24 (C) subject to paragraph (2), the alien—

25 (i) is not inadmissible under para-
26 graph (1), (2), (3), (4), (6)(E), (6)(G), (8),

1 (10)(A), (10)(C), or (10)(D) of section
2 212(a) of the Immigration and Nationality
3 Act (8 U.S.C. 1182(a));

4 (ii) is not deportable under paragraph
5 (1)(E), (1)(G), (2), (4), (5), or (6) of sec-
6 tion 237(a) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1227(a));

8 (iii) 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 (iv) has not been convicted of—

14 (I) any offense under Federal or
15 State law punishable by a maximum
16 term of imprisonment of more than 1
17 year; or

18 (II) 3 or more offenses under
19 Federal or State law, for which the
20 alien was convicted on different dates
21 for each of the 3 offenses and sen-
22 tenced to imprisonment for an aggre-
23 gate of 90 days or more;

24 (D) the alien—

1 (i) has been admitted to an institution
2 of higher education in the United States;

3 or

4 (ii) has earned a high school diploma
5 or obtained a general education develop-
6 ment certificate in the United States;

7 (E) the alien has never been under a final
8 administrative or judicial order of exclusion, de-
9 portation, or removal, unless the alien—

10 (i) has remained in the United States
11 under color of law after such order was
12 issued; or

13 (ii) received the order before attaining
14 the age of 16 years; and

15 (F) the alien was younger than 30 years of
16 age on the date of the enactment of this Act.

17 (2) WAIVER.—With respect to any benefit
18 under this section and sections 7 through 16 of this
19 Act, the Secretary of Homeland Security may waive
20 the ground of inadmissibility under paragraph (1),
21 (4), or (6) of section 212(a) of the Immigration and
22 Nationality Act (8 U.S.C. 1182(a)) and the ground
23 of deportability under paragraph (1) of section
24 237(a) of that Act (8 U.S.C. 1227(a)) for humani-

1 tarian purposes or family unity or when it is other-
2 wise in the public interest.

3 (3) PROCEDURES.—The Secretary of Homeland
4 Security shall provide a procedure by regulation al-
5 lowing eligible individuals to apply affirmatively for
6 the relief available under this subsection without
7 being placed in removal proceedings.

8 (4) SURCHARGE.—The Secretary of Homeland
9 Security shall charge and collect a surcharge of
10 \$525 per application on all applications for relief
11 under this subsection. Such surcharge shall be in ad-
12 dition to the otherwise applicable application fee im-
13 posed for the purpose of recovering the full costs of
14 providing adjudication and processing services. Not-
15 withstanding any other provision of law, including
16 section 286 of the Immigration and Nationality Act
17 (8 U.S.C. 1356), any surcharge collected under this
18 paragraph shall be deposited as offsetting receipts in
19 the General Fund of the Treasury and shall not be
20 available for obligation or expenditure.

21 (5) DEADLINE FOR SUBMISSION OF APPLICA-
22 TION.—An alien shall submit an application for can-
23 cellation of removal and conditional nonimmigrant
24 status under this subsection no later than the date
25 that is 1 year after the later of—

1 (A) the date the alien earned a high school
2 diploma or obtained a general education devel-
3 opment certificate in the United States; or

4 (B) the effective date of the interim regu-
5 lations under subsection (d).

6 (6) SUBMISSION OF BIOMETRIC AND BIO-
7 GRAPHIC DATA.—The Secretary of Homeland Secu-
8 rity may not cancel the removal of an alien or grant
9 conditional nonimmigrant status to the alien under
10 this subsection unless the alien submits biometric
11 and biographic data, in accordance with procedures
12 established by the Secretary. The Secretary shall
13 provide an alternative procedure for applicants who
14 are unable to provide such biometric or biographic
15 data because of a physical impairment.

16 (7) BACKGROUND CHECKS.—

17 (A) REQUIREMENT FOR BACKGROUND
18 CHECKS.—The Secretary of Homeland Security
19 shall utilize biometric, biographic, and other
20 data that the Secretary determines is appro-
21 priate—

22 (i) to conduct security and law en-
23 forcement background checks of an alien
24 seeking relief available under this sub-
25 section; and

1 (ii) to determine whether there is any
2 criminal, national security, or other factor
3 that would render the alien ineligible for
4 such relief.

5 (B) COMPLETION OF BACKGROUND
6 CHECKS.—The security and law enforcement
7 background checks required by subparagraph
8 (A) shall be completed, to the satisfaction of the
9 Secretary, prior to the date the Secretary can-
10 cels the removal of the alien under this sub-
11 section.

12 (8) MEDICAL EXAMINATION.—An alien applying
13 for relief available under this subsection shall under-
14 go a medical observation and examination. The Sec-
15 retary of Homeland Security, with the concurrence
16 of the Secretary of Health and Human Services,
17 shall prescribe policies and procedures for the nature
18 and timing of such observation and examination.

19 (9) MILITARY SELECTIVE SERVICE.—An alien
20 applying for relief available under this subsection
21 shall establish that the alien has registered under
22 the Military Selective Service Act (50 U.S.C. App.
23 451 et seq.), if the alien is subject to such registra-
24 tion under that Act.

1 (b) TERMINATION OF CONTINUOUS PERIOD.—For
2 purposes of this section, any period of continuous resi-
3 dence or continuous physical presence in the United States
4 of an alien who applies for cancellation of removal under
5 subsection (a) shall not terminate when the alien is served
6 a notice to appear under section 239(a) of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1229(a)).

8 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
9 ENCE.—

10 (1) IN GENERAL.—An alien shall be considered
11 to have failed to maintain continuous physical pres-
12 ence in the United States under subsection (a) if the
13 alien has departed from the United States for any
14 period in excess of 90 days or for any periods in the
15 aggregate exceeding 180 days.

16 (2) EXTENSIONS FOR EXCEPTIONAL CIR-
17 CUMSTANCES.—The Secretary of Homeland Security
18 may extend the time periods described in paragraph
19 (1) if the alien demonstrates that the failure to time-
20 ly return to the United States was due to excep-
21 tional circumstances. The exceptional circumstances
22 determined sufficient to justify an extension should
23 be no less compelling than serious illness of the
24 alien, or death or serious illness of a parent, grand-
25 parent, sibling, or child.

1 (d) REGULATIONS.—

2 (1) INITIAL PUBLICATION.—Not later than 180
3 days after the date of the enactment of this Act, the
4 Secretary of Homeland Security shall publish regula-
5 tions implementing this section.

6 (2) INTERIM REGULATIONS.—Notwithstanding
7 section 553 of title 5, United States Code, the regu-
8 lations required by paragraph (1) shall be effective,
9 on an interim basis, immediately upon publication
10 but may be subject to change and revision after pub-
11 lic notice and opportunity for a period of public com-
12 ment.

13 (3) FINAL REGULATIONS.—Within a reasonable
14 time after publication of the interim regulations in
15 accordance with paragraph (1), the Secretary of
16 Homeland Security shall publish final regulations
17 implementing this section.

18 (e) REMOVAL OF ALIEN.—The Secretary of Home-
19 land Security may not remove any alien who—

20 (1) has a pending application for conditional
21 nonimmigrant status under this Act; and

22 (2) establishes prima facie eligibility for can-
23 cellation of removal and conditional nonimmigrant
24 status under subsection (a).

1 **SEC. 7. CONDITIONAL NONIMMIGRANT STATUS.**

2 (a) LENGTH OF STATUS.—Conditional nonimmigrant
3 status granted under section 6 shall be valid for an initial
4 period of 5 years, subject to termination under subsection
5 (c) of this section.

6 (b) TERMS OF CONDITIONAL NONIMMIGRANT STA-
7 TUS.—

8 (1) EMPLOYMENT.—A conditional non-
9 immigrant shall be authorized to be employed in the
10 United States incident to conditional nonimmigrant
11 status.

12 (2) TRAVEL.—A conditional nonimmigrant may
13 travel outside the United States and may be admit-
14 ted (if otherwise admissible) upon return to the
15 United States without having to obtain a visa if—

16 (A) the alien is the bearer of valid, unex-
17 pired documentary evidence of conditional non-
18 immigrant status; and

19 (B) the alien's absence from the United
20 States was not for a period exceeding 180 days.

21 (c) TERMINATION OF STATUS.—

22 (1) IN GENERAL.—The Secretary of Homeland
23 Security shall terminate the conditional non-
24 immigrant status of any alien if the Secretary deter-
25 mines that the alien—

1 (A) ceases to meet the requirements of
2 subparagraph (B) or (C) of section 6(a)(1);

3 (B) has become a public charge; or

4 (C) has received a dishonorable or other
5 than honorable discharge from the Armed
6 Forces.

7 (2) RETURN TO PREVIOUS IMMIGRATION STA-
8 TUS.—Any alien whose conditional nonimmigrant
9 status is terminated under paragraph (1) shall re-
10 turn to the immigration status the alien had imme-
11 diately prior to receiving conditional nonimmigrant
12 status.

13 (d) EXTENSION OF STATUS.—

14 (1) ELIGIBILITY.—The Secretary of Homeland
15 Security shall extend the conditional nonimmigrant
16 status of an alien for a second period of 5 years if
17 the following requirements are met:

18 (A) The alien has demonstrated good
19 moral character during the entire period the
20 alien has been a conditional nonimmigrant.

21 (B) The alien is in compliance with section
22 6(a)(1)(C).

23 (C) The alien has not abandoned the
24 alien's residence in the United States. For pur-
25 poses of this subparagraph—

1 (i) the Secretary shall presume that
2 the alien has abandoned such residence if
3 the alien is absent from the United States
4 for more than 365 days, in the aggregate,
5 during the period of conditional non-
6 immigrant status, unless the alien dem-
7 onstrates that the alien has not abandoned
8 the alien's residence; and

9 (ii) an alien who is absent from the
10 United States due to active service in the
11 Armed Forces has not abandoned the
12 alien's residence in the United States dur-
13 ing the period of such service.

14 (D) The alien—

15 (i) has acquired a degree from an in-
16 stitution of higher education in the United
17 States or has completed at least 2 years, in
18 good standing, in a program for a bach-
19 elor's degree or higher degree in the
20 United States; or

21 (ii) has served in the Armed Forces
22 for at least 2 years and, if discharged, has
23 received an honorable discharge.

24 (E) The alien has provided a list of each
25 secondary school (as that term is defined in sec-

1 tion 9101 of the Elementary and Secondary
2 Education Act of 1965 (20 U.S.C. 7801)) that
3 the alien attended in the United States.

4 (2) SURCHARGE.—The Secretary of Homeland
5 Security shall charge and collect a surcharge of
6 \$2,000 per application on all applications for an ex-
7 tension under this subsection. Such surcharge shall
8 be in addition to the otherwise applicable application
9 fee imposed for the purpose of recovering the full
10 costs of providing adjudication and processing serv-
11 ices. Notwithstanding any other provision of law, in-
12 cluding section 286 of the Immigration and Nation-
13 ality Act (8 U.S.C. 1356), any surcharge collected
14 under this paragraph shall be deposited as offsetting
15 receipts in the General Fund of the Treasury and
16 shall not be available for obligation or expenditure.

17 (3) HARDSHIP EXCEPTION.—The Secretary of
18 Homeland Security may, in the Secretary’s discre-
19 tion, extend the conditional nonimmigrant status of
20 an alien if the alien—

21 (A) satisfies the requirements of subpara-
22 graphs (A), (B), and (C) of paragraph (1);

23 (B) demonstrates compelling circumstances
24 for the inability to complete the requirements
25 described in paragraph (1)(D); and

1 (C) demonstrates that the alien's removal
2 from the United States would result in excep-
3 tional and extremely unusual hardship to the
4 alien or the alien's spouse, parent, or child who
5 is a citizen or a lawful permanent resident of
6 the United States.

7 **SEC. 8. ADJUSTMENT OF STATUS.**

8 (a) IN GENERAL.—A conditional nonimmigrant may
9 file with the Secretary of Homeland Security, in accord-
10 ance with subsection (c), an application to have the alien's
11 status adjusted to that of an alien lawfully admitted for
12 permanent residence. The application shall provide, under
13 penalty of perjury, the facts and information so that the
14 Secretary may make the determination described in sub-
15 section (b)(1).

16 (b) ADJUDICATION OF APPLICATION FOR ADJUST-
17 MENT OF STATUS.—

18 (1) IN GENERAL.—If an application is filed in
19 accordance with subsection (a) for an alien, the Sec-
20 retary of Homeland Security shall make a deter-
21 mination as to whether the alien meets the require-
22 ments set out in paragraphs (1) through (4) of sub-
23 section (d).

24 (2) ADJUSTMENT OF STATUS IF FAVORABLE
25 DETERMINATION.—If the Secretary determines that

1 the alien meets such requirements, the Secretary
2 shall notify the alien of such determination and ad-
3 just the alien's status to that of an alien lawfully ad-
4 mitted for permanent residence, effective as of the
5 date of approval of the application.

6 (3) TERMINATION IF ADVERSE DETERMINA-
7 TION.—If the Secretary determines that the alien
8 does not meet such requirements, the Secretary shall
9 notify the alien of such determination and terminate
10 the conditional nonimmigrant status of the alien as
11 of the date of the determination.

12 (c) TIME TO FILE APPLICATION.—An alien shall file
13 an application for adjustment of status during the period
14 beginning 1 year before and ending on either the date that
15 is 10 years after the date of the initial grant of conditional
16 nonimmigrant status or any other expiration date of the
17 conditional nonimmigrant status as extended by the Sec-
18 retary of Homeland Security in accordance with this Act.
19 The alien shall be deemed to be in conditional non-
20 immigrant status in the United States during the period
21 in which such application is pending.

22 (d) CONTENTS OF APPLICATION.—Each application
23 for an alien under subsection (a) shall contain information
24 to permit the Secretary of Homeland Security to deter-
25 mine whether each of the following requirements is met:

1 (1) The alien has demonstrated good moral
2 character during the entire period the alien has been
3 a conditional nonimmigrant.

4 (2) The alien is in compliance with section
5 6(a)(1)(C).

6 (3) The alien has not abandoned the alien's res-
7 idence in the United States. For purposes of this
8 paragraph—

9 (A) the Secretary shall presume that the
10 alien has abandoned such residence if the alien
11 is absent from the United States for more than
12 730 days, in the aggregate, during the period of
13 conditional nonimmigrant status, unless the
14 alien demonstrates that the alien has not aban-
15 doned the alien's residence; and

16 (B) an alien who is absent from the United
17 States due to active service in the Armed
18 Forces has not abandoned the alien's residence
19 in the United States during the period of such
20 service.

21 (4) If previously granted a hardship exception
22 under section 7(d)(3) from the requirements of sec-
23 tion 7(d)(1)(D) with respect to extension of condi-
24 tional nonimmigrant status, the alien has subse-
25 quently complied with such requirements, unless the

1 alien is granted a hardship exception with respect to
2 adjustment of status under the criteria described in
3 section 7(d)(3).

4 (e) CITIZENSHIP REQUIREMENT.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the status of a conditional nonimmigrant
7 shall not be adjusted to permanent resident status
8 unless the alien demonstrates that the alien satisfies
9 the requirements of section 312(a) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1423(a)).

11 (2) EXCEPTION.—Paragraph (1) shall not
12 apply to an alien who is unable because of a physical
13 or developmental disability or mental impairment to
14 meet the requirements of such paragraph.

15 (f) PAYMENT OF FEDERAL TAXES.—

16 (1) IN GENERAL.—Not later than the date on
17 which an application is filed under subsection (a) for
18 adjustment of status, the alien shall satisfy any ap-
19 plicable Federal tax liability due and owing on such
20 date.

21 (2) APPLICABLE FEDERAL TAX LIABILITY.—

22 For purposes of paragraph (1), the term “applicable
23 Federal tax liability” means liability for Federal
24 taxes imposed under the Internal Revenue Code of
25 1986, including any penalties and interest thereon.

1 (g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
2 DATA.—The Secretary of Homeland Security may not ad-
3 just the status of an alien under this section unless the
4 alien submits biometric and biographic data, in accordance
5 with procedures established by the Secretary. The Sec-
6 retary shall provide an alternative procedure for applicants
7 who are unable to provide such biometric or biographic
8 data because of a physical impairment.

9 (h) BACKGROUND CHECKS.—

10 (1) REQUIREMENT FOR BACKGROUND
11 CHECKS.—The Secretary of Homeland Security shall
12 utilize biometric, biographic, and other data that the
13 Secretary determines appropriate—

14 (A) to conduct security and law enforce-
15 ment background checks of an alien applying
16 for adjustment of status under this section; and

17 (B) to determine whether there is any
18 criminal, national security, or other factor that
19 would render the alien ineligible for such ad-
20 justment of status.

21 (2) COMPLETION OF BACKGROUND CHECKS.—

22 The security and law enforcement background
23 checks required by paragraph (1) shall be completed,
24 to the satisfaction of the Secretary, prior to the date
25 the Secretary grants adjustment of status.

1 (i) EXEMPTION FROM NUMERICAL LIMITATIONS.—

2 Nothing in this section or in any other law may be con-
3 strued to apply a numerical limitation on the number of
4 aliens who may be eligible for adjustment of status under
5 this section.

6 (j) ELIGIBILITY FOR NATURALIZATION.—An alien

7 whose status is adjusted under this section to that of an
8 alien lawfully admitted for permanent residence may be
9 naturalized upon compliance with all the requirements of
10 the immigration laws except the provisions of paragraph
11 (1) of section 316(a) of the Immigration and Nationality
12 Act (8 U.S.C. 1427(a)), if such person immediately pre-
13 ceding the date of filing the application for naturalization
14 has resided continuously, after being lawfully admitted for
15 permanent residence, within the United States for at least
16 3 years, and has been physically present in the United
17 States for periods totaling at least half of that time and
18 has resided within the State or the district of U.S. Citizen-
19 ship and Immigration Services in the United States in
20 which the applicant filed the application for at least 3
21 months. An alien described in this subsection may file the
22 application for naturalization as provided in the second
23 sentence of subsection (a) of section 334 of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1445).

1 **SEC. 9. TREATMENT OF ALIENS MEETING REQUIREMENTS**
2 **FOR EXTENSION OF CONDITIONAL NON-**
3 **IMMIGRANT STATUS.**

4 If, on the date of the enactment of this Act, an alien
5 has satisfied all the requirements of section 6(a)(1) and
6 section 7(d)(1)(D), the Secretary of Homeland Security
7 may cancel removal and grant conditional nonimmigrant
8 status in accordance with section 6, and may extend condi-
9 tional nonimmigrant status in accordance with section
10 7(d). The alien may apply for adjustment of status in ac-
11 cordance with section 8(a) if the alien has met the require-
12 ments of subparagraphs (A), (B), and (C) of section
13 7(d)(1) during the entire period of conditional non-
14 immigrant status.

15 **SEC. 10. EXCLUSIVE JURISDICTION.**

16 (a) IN GENERAL.—The Secretary of Homeland Secu-
17 rity shall have exclusive jurisdiction to determine eligibility
18 for relief under sections 6 through 16 of this Act, except
19 where the alien has been placed into deportation, exclu-
20 sion, or removal proceedings either prior to or after filing
21 an application for cancellation of removal and conditional
22 nonimmigrant status or adjustment of status under this
23 Act, in which case the Attorney General shall have exclu-
24 sive jurisdiction and shall assume all the powers and du-
25 ties of the Secretary until proceedings are terminated, or
26 if a final order of deportation, exclusion, or removal is en-

1 tered the Secretary shall resume all powers and duties del-
2 egated to the Secretary under this Act. If the Secretary
3 grants relief under sections 6 through 16 of this Act, the
4 final order of deportation, exclusion, or removal shall be
5 terminated.

6 (b) STAY OF REMOVAL OF CERTAIN ALIENS EN-
7 ROLLED IN PRIMARY OR SECONDARY SCHOOL.—

8 (1) IN GENERAL.—The Attorney General shall
9 stay the removal proceedings of any alien who—

10 (A) meets all the requirements of subpara-
11 graphs (A), (B), (C), and (E) of section
12 6(a)(1);

13 (B) is at least 12 years of age; and

14 (C) is enrolled full-time in a primary or
15 secondary school.

16 (2) ALIENS NOT IN REMOVAL PROCEEDINGS.—

17 For aliens who are not in removal proceedings, the
18 Secretary of Homeland Security shall not commence
19 such proceedings with respect to the alien if the
20 alien meets the requirements of subparagraphs (A)
21 through (C) of paragraph (1).

22 (c) EMPLOYMENT.—An alien whose removal is stayed
23 pursuant to subsection (b)(1) may be engaged in employ-
24 ment in the United States consistent with the Fair Labor

1 Standards Act (29 U.S.C. 201 et seq.) and State and local
2 laws governing minimum age for employment.

3 (d) LIFT OF STAY.—The Attorney General shall lift
4 the stay granted pursuant to subsection (b)(1) if the
5 alien—

6 (1) is no longer enrolled in a primary or sec-
7 ondary school; or

8 (2) ceases to meet the requirements of such
9 subsection.

10 **SEC. 11. PENALTIES FOR FALSE STATEMENTS.**

11 Whoever files an application for any benefit under
12 sections 6 through 16 of this Act and willfully and know-
13 ingly falsifies, misrepresents, or conceals a material fact
14 or makes any false or fraudulent statement or representa-
15 tion, or makes or uses any false writing or document
16 knowing the same to contain any false or fraudulent state-
17 ment or entry, shall be fined in accordance with title 18,
18 United States Code, imprisoned not more than 5 years,
19 or both.

20 **SEC. 12. CONFIDENTIALITY OF INFORMATION.**

21 (a) PROHIBITION.—Except as provided in subsection
22 (b), no officer or employee of the United States may—

23 (1) use the information furnished by an indi-
24 vidual pursuant to an application filed under sec-
25 tions 6 through 16 of this Act to initiate removal

1 proceedings against any person identified in the ap-
2 plication;

3 (2) make any publication whereby the informa-
4 tion furnished by any particular individual pursuant
5 to an application under sections 6 through 16 of this
6 Act can be identified; or

7 (3) permit anyone other than an officer or em-
8 ployee of the United States Government or, in the
9 case of an application filed under sections 6 through
10 16 of this Act with a designated entity, that des-
11 ignated entity, to examine such application filed
12 under such sections.

13 (b) REQUIRED DISCLOSURE.—The Attorney General
14 or the Secretary of Homeland Security shall provide the
15 information furnished under sections 6 through 16 of this
16 Act, and any other information derived from such fur-
17 nished information, to—

18 (1) a Federal, State, tribal, or local law enforce-
19 ment agency, intelligence agency, national security
20 agency, component of the Department of Homeland
21 Security, court, or grand jury in connection with a
22 criminal investigation or prosecution, a background
23 check conducted pursuant to the Brady Handgun
24 Violence Protection Act (Public Law 103–159; 107
25 Stat. 1536) or an amendment made by that Act, or

1 for homeland security or national security purposes,
2 if such information is requested by such entity or
3 consistent with an information sharing agreement or
4 mechanism; or

5 (2) an official coroner for purposes of affirma-
6 tively identifying a deceased individual (whether or
7 not such individual is deceased as a result of a
8 crime).

9 (c) FRAUD IN APPLICATION PROCESS OR CRIMINAL
10 CONDUCT.—Notwithstanding any other provision of this
11 section, information concerning whether an alien seeking
12 relief under sections 6 through 16 of this Act has engaged
13 in fraud in an application for such relief or at any time
14 committed a crime may be used or released for immigra-
15 tion enforcement, law enforcement, or national security
16 purposes.

17 (d) PENALTY.—Whoever knowingly uses, publishes,
18 or permits information to be examined in violation of this
19 section shall be fined not more than \$10,000.

20 **SEC. 13. HIGHER EDUCATION ASSISTANCE.**

21 Notwithstanding any provision of the Higher Edu-
22 cation Act of 1965 (20 U.S.C. 1001 et seq.), with respect
23 to assistance provided under title IV of the Higher Edu-
24 cation Act of 1965 (20 U.S.C. 1070 et seq.), an alien who
25 is granted conditional nonimmigrant status or lawful per-

1 manent resident status under this Act shall be eligible only
2 for the following assistance under such title:

3 (1) Student loans under parts D and E of such
4 title IV (20 U.S.C. 1087a et seq., 1087aa et seq.),
5 subject to the requirements of such parts.

6 (2) Federal work-study programs under part C
7 of such title IV (42 U.S.C. 2751 et seq.), subject to
8 the requirements of such part.

9 (3) Services under such title IV (20 U.S.C.
10 1070 et seq.), subject to the requirements for such
11 services.

12 **SEC. 14. TREATMENT OF CONDITIONAL NONIMMIGRANTS**
13 **FOR CERTAIN PURPOSES.**

14 (a) IN GENERAL.—An individual granted conditional
15 nonimmigrant status under this Act shall, while such indi-
16 vidual remains in such status, be considered lawfully
17 present for all purposes except—

18 (1) section 36B of the Internal Revenue Code
19 of 1986 (concerning premium tax credits), as added
20 by section 1401 of the Patient Protection and Af-
21 fordable Care Act (Public Law 111–148); and

22 (2) section 1402 of the Patient Protection and
23 Affordable Care Act (concerning reduced cost shar-
24 ing; 42 U.S.C. 18071).

1 (b) FOR PURPOSES OF THE 5-YEAR ELIGIBILITY
2 WAITING PERIOD UNDER PRWORA.—An individual who
3 has met the requirements under this Act for adjustment
4 from conditional nonimmigrant status to lawful perma-
5 nent resident status shall be considered, as of the date
6 of such adjustment, to have completed the 5-year period
7 specified in section 403 of the Personal Responsibility and
8 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
9 1613).

10 **SEC. 15. MILITARY ENLISTMENT.**

11 Section 504(b)(1) of title 10, United States Code, is
12 amended by adding at the end the following new subpara-
13 graph:

14 “(D) An alien who is a conditional non-
15 immigrant (as that term is defined in section 5 of
16 the DREAM Act of 2010).”.

17 **SEC. 16. GAO REPORT.**

18 Not later than 7 years after the date of the enact-
19 ment of this Act, the Comptroller General of the United
20 States shall submit to the Committee on the Judiciary of
21 the Senate and the Committee on the Judiciary of the
22 House of Representatives a report setting forth—

23 (1) the number of aliens who were eligible for
24 cancellation of removal and grant of conditional non-
25 immigrant status under section 6(a);

1 (2) the number of aliens who applied for can-
2 cellation of removal and grant of conditional non-
3 immigrant status under section 6(a);

4 (3) the number of aliens who were granted con-
5 ditional nonimmigrant status under section 6(a);
6 and

7 (4) the number of aliens whose status was ad-
8 justed to that of an alien lawfully admitted for per-
9 manent residence under section 8.

