

Rich Durbin

S.L.C.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To add the DREAM Act of 2007.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

H. R. 1585

AMENDMENT No. 2919

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AMENDMENT intended to be proposed by Mr. DURBIN

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Viz:

1 At the end, add the following:

2 **TITLE XXXIII—DREAM ACT OF**3 **2007**4 **SEC. 3301. SHORT TITLE.**

5 This title may be cited as the "Development, Relief,
 6 and Education for Alien Minors Act of 2007" or the
 7 "DREAM Act of 2007".

8 **SEC. 3302. DEFINITIONS.**

9 In this title:

1 (1) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education” has the
3 meaning given that term in section 101 of the High-
4 er Education Act of 1965 (20 U.S.C. 1001).

5 (2) UNIFORMED SERVICES.—The term “uni-
6 formed services” has the meaning given that term in
7 section 101(a) of title 10, United States Code.

8 **SEC. 3303. CANCELLATION OF REMOVAL AND ADJUSTMENT**
9 **OF STATUS OF CERTAIN LONG-TERM RESI-**
10 **DENTS WHO ENTERED THE UNITED STATES**
11 **AS CHILDREN.**

12 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-
13 DENTS WHO ENTERED THE UNITED STATES AS CHIL-
14 DREN.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law and except as otherwise provided in
17 this title, the Secretary of Homeland Security may
18 cancel removal of, and adjust to the status of an
19 alien lawfully admitted for permanent residence,
20 subject to the conditional basis described in section
21 3305, an alien who is inadmissible or deportable
22 from the United States, if the alien demonstrates
23 that—

24 (A) the alien has been physically present in
25 the United States for a continuous period of

1 not less than 5 years immediately preceding the
2 date of enactment of this title, and had not yet
3 reached the age of 16 years at the time of ini-
4 tial entry;

5 (B) the alien has been a person of good
6 moral character since the time of application;

7 (C) the alien—

8 (i) is not inadmissible under para-
9 graph (2), (3), (6)(E), or (10)(C) of sec-
10 tion 212(a) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1182(a)); and

12 (ii) is not deportable under paragraph
13 (1)(E), (2), or (4) of section 237(a) of the
14 Immigration and Nationality Act (8 U.S.C.
15 1227(a));

16 (D) the alien, at the time of application,
17 has been admitted to an institution of higher
18 education in the United States, or has earned
19 a high school diploma or obtained a general
20 education development certificate in the United
21 States;

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

1 (i) has remained in the United States
2 under color of law after such order was
3 issued; or

4 (ii) received the order before attaining
5 the age of 16 years; and

6 (F) the alien is under 30 years of age on
7 the date of the enactment of this Act.

8 (2) WAIVER.—Notwithstanding paragraph (1),
9 the Secretary of Homeland Security may waive the
10 ground of ineligibility under section 212(a)(6)(E) of
11 the Immigration and Nationality Act and the ground
12 of deportability under paragraph (1)(E) of section
13 237(a) of that Act for humanitarian purposes or
14 family unity or when it is otherwise in the public in-
15 terest.

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

21 (b) TERMINATION OF CONTINUOUS PERIOD.—For
22 purposes of this section, any period of continuous resi-
23 dence or continuous physical presence in the United States
24 of an alien who applies for cancellation of removal under
25 this section shall not terminate when the alien is served

1 a notice to appear under section 239(a) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1229(a)).

3 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
4 ENCE.—

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

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

21 (d) EXEMPTION FROM NUMERICAL LIMITATIONS.—
22 Nothing in this section may be construed to apply a nu-
23 merical limitation on the number of aliens who may be
24 eligible for cancellation of removal or adjustment of status
25 under this section.

1 (e) REGULATIONS.—

2 (1) PROPOSED REGULATIONS.—Not later than
3 180 days after the date of enactment of this title,
4 the Secretary of Homeland Security shall publish
5 proposed regulations implementing this section.
6 Such regulations shall be effective immediately on an
7 interim basis, but are subject to change and revision
8 after public notice and opportunity for a period for
9 public comment.

10 (2) INTERIM, FINAL REGULATIONS.—Within a
11 reasonable time after publication of the interim reg-
12 ulations in accordance with paragraph (1), the Sec-
13 retary of Homeland Security shall publish final regu-
14 lations implementing this section.

15 (f) REMOVAL OF ALIEN.—The Secretary of Home-
16 land Security may not remove any alien who has a pending
17 application for conditional status under this title.

18 **SEC. 3304. CONDITIONAL PERMANENT RESIDENT STATUS.**

19 (a) IN GENERAL.—

20 (1) CONDITIONAL BASIS FOR STATUS.—Not-
21 withstanding any other provision of law, and except
22 as provided in section 3305, an alien whose status
23 has been adjusted under section 3303 to that of an
24 alien lawfully admitted for permanent residence shall
25 be considered to have obtained such status on a con-

ditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary of Homeland Security to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this title with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall terminate the conditional permanent

1 resident status of any alien who obtained such sta-
2 tus under this title, if the Secretary determines that
3 the alien—

4 (A) ceases to meet the requirements of
5 subparagraph (B) or (C) of section 3303(a)(1);

6 (B) has become a public charge; or

7 (C) has received a dishonorable or other
8 than honorable discharge from the uniformed
9 services.

10 (2) RETURN TO PREVIOUS IMMIGRATION STA-
11 TUS.—Any alien whose conditional permanent resi-
12 dent status is terminated under paragraph (1) shall
13 return to the immigration status the alien had im-
14 mediately prior to receiving conditional permanent
15 resident status under this title.

16 (c) REQUIREMENTS OF TIMELY PETITION FOR RE-
17 MOVAL OF CONDITION.—

18 (1) IN GENERAL.—In order for the conditional
19 basis of permanent resident status obtained by an
20 alien under subsection (a) to be removed, the alien
21 must file with the Secretary of Homeland Security,
22 in accordance with paragraph (3), a petition which
23 requests the removal of such conditional basis and
24 which provides, under penalty of perjury, the facts

1 and information so that the Secretary may make the
2 determination described in paragraph (2)(A).

3 (2) ADJUDICATION OF PETITION TO REMOVE
4 CONDITION.—

5 (A) IN GENERAL.—If a petition is filed in
6 accordance with paragraph (1) for an alien, the
7 Secretary of Homeland Security shall make a
8 determination as to whether the alien meets the
9 requirements set out in subparagraphs (A)
10 through (E) of subsection (d)(1).

11 (B) REMOVAL OF CONDITIONAL BASIS IF
12 FAVORABLE DETERMINATION.—If the Secretary
13 determines that the alien meets such require-
14 ments, the Secretary shall notify the alien of
15 such determination and immediately remove the
16 conditional basis of the status of the alien.

17 (C) TERMINATION IF ADVERSE DETER-
18 MINATION.—If the Secretary determines that
19 the alien does not meet such requirements, the
20 Secretary shall notify the alien of such deter-
21 mination and terminate the conditional perma-
22 nent resident status of the alien as of the date
23 of the determination.

24 (3) TIME TO FILE PETITION.—An alien may pe-
25 tition to remove the conditional basis to lawful resi-

1 dent status during the period beginning 180 days
2 before and ending 2 years after either the date that
3 is 6 years after the date of the granting of condi-
4 tional permanent resident status or any other expi-
5 ration date of the conditional permanent resident
6 status as extended by the Secretary of Homeland
7 Security in accordance with this title. The alien shall
8 be deemed in conditional permanent resident status
9 in the United States during the period in which the
10 petition is pending.

11 (d) DETAILS OF PETITION.—

12 (1) CONTENTS OF PETITION.—Each petition
13 for an alien under subsection (c)(1) shall contain in-
14 formation to permit the Secretary of Homeland Se-
15 curity to determine whether each of the following re-
16 quirements is met:

17 (A) The alien has demonstrated good
18 moral character during the entire period the
19 alien has been a conditional permanent resi-
20 dent.

21 (B) The alien is in compliance with section
22 3303(a)(1)(C).

23 (C) The alien has not abandoned the
24 alien's residence in the United States. The Sec-
25 retary shall presume that the alien has aban-

1 doned such residence if the alien is absent from
2 the United States for more than 365 days, in
3 the aggregate, during the period of conditional
4 residence, unless the alien demonstrates that
5 alien has not abandoned the alien's residence.
6 An alien who is absent from the United States
7 due to active service in the uniformed services
8 has not abandoned the alien's residence in the
9 United States during the period of such service.

10 (D) The alien has completed at least 1 of
11 the following:

12 (i) The alien has acquired a degree
13 from an institution of higher education in
14 the United States or has completed at
15 least 2 years, in good standing, in a pro-
16 gram for a bachelor's degree or higher de-
17 gree in the United States.

18 (ii) The alien has served in the uni-
19 formed services for at least 2 years and, if
20 discharged, has received an honorable dis-
21 charge.

22 (E) The alien has provided a list of each
23 secondary school (as that term is defined in sec-
24 tion 9101 of the Elementary and Secondary

1 Education Act of 1965 (20 U.S.C. 7801)) that
2 the alien attended in the United States.

3 (2) HARDSHIP EXCEPTION.—

4 (A) IN GENERAL.—The Secretary of
5 Homeland Security may, in the Secretary's dis-
6 cretion, remove the conditional status of an
7 alien if the alien—

8 (i) satisfies the requirements of sub-
9 paragraphs (A), (B), and (C) of paragraph
10 (1);

11 (ii) demonstrates compelling cir-
12 cumstances for the inability to complete
13 the requirements described in paragraph
14 (1)(D); and

15 (iii) demonstrates that the alien's re-
16 moval from the United States would result
17 in exceptional and extremely unusual hard-
18 ship to the alien or the alien's spouse, par-
19 ent, or child who is a citizen or a lawful
20 permanent resident of the United States.

21 (B) EXTENSION.—Upon a showing of good
22 cause, the Secretary of Homeland Security may
23 extend the period of conditional resident status
24 for the purpose of completing the requirements
25 described in paragraph (1)(D).

1 (e) TREATMENT OF PERIOD FOR PURPOSES OF NAT-
2 URALIZATION.—For purposes of title III of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1401 et seq.), in the
4 case of an alien who is in the United States as a lawful
5 permanent resident on a conditional basis under this sec-
6 tion, the alien shall be considered to have been admitted
7 as an alien lawfully admitted for permanent residence and
8 to be in the United States as an alien lawfully admitted
9 to the United States for permanent residence. However,
10 the conditional basis must be removed before the alien
11 may apply for naturalization.

12 **SEC. 3305. RETROACTIVE BENEFITS.**

13 If, on the date of enactment of this title, an alien
14 has satisfied all the requirements of subparagraphs (A)
15 through (E) of section 3303(a)(1) and section
16 3304(d)(1)(D), the Secretary of Homeland Security may
17 adjust the status of the alien to that of a conditional resi-
18 dent in accordance with section 3303. The alien may peti-
19 tion for removal of such condition at the end of the condi-
20 tional residence period in accordance with section 3304(c)
21 if the alien has met the requirements of subparagraphs
22 (A), (B), and (C) of section 3304(d)(1) during the entire
23 period of conditional residence.

1 **SEC. 3306. EXCLUSIVE JURISDICTION.**

2 The Secretary of Homeland Security shall have exclu-
3 sive jurisdiction to determine eligibility for relief under
4 this title, except where the alien has been placed into de-
5 portation, exclusion, or removal proceedings either prior
6 to or after filing an application for relief under this title,
7 in which case the Attorney General shall have exclusive
8 jurisdiction and shall assume all the powers and duties
9 of the Secretary until proceedings are terminated, or if
10 a final order of deportation, exclusion, or removal is en-
11 tered the Secretary shall resume all powers and duties del-
12 egated to the Secretary under this title.

13 **SEC. 3307. STAY OF REMOVAL OF CERTAIN ALIENS EN-**
14 **ROLLED IN PRIMARY OR SECONDARY**
15 **SCHOOL.**

16 (a) STAY OF REMOVAL.—The Attorney General shall
17 stay the removal proceedings of any alien who—

18 (1) meets all the requirements of subpara-
19 graphs (A), (B), (C), and (E) of section 3303(a)(1);

20 (2) is at least 12 years of age; and

21 (3) is enrolled full time in a primary or sec-
22 ondary school.

23 (b) EMPLOYMENT.—An alien whose removal is stayed
24 pursuant to subsection (a) may be engaged in employment
25 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 (c) LIFT OF STAY.—The Attorney General shall lift
4 the stay granted pursuant to subsection (a) if the alien—

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

7 (2) ceases to meet the requirements of sub-
8 section (a)(1).

9 **SEC. 3308. PENALTIES FOR FALSE STATEMENTS IN APPLI-**
10 **CATION.**

11 Whoever files an application for relief under this title
12 and willfully and knowingly falsifies, misrepresents, or
13 conceals a material fact or makes any false or fraudulent
14 statement or representation, or makes or uses any false
15 writing or document knowing the same to contain any
16 false or fraudulent statement or entry, shall be fined in
17 accordance with title 18, United States Code, or impris-
18 oned not more than 5 years, or both.

19 **SEC. 3309. CONFIDENTIALITY OF INFORMATION.**

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

22 (1) use the information furnished by the appli-
23 cant pursuant to an application filed under this title
24 to initiate removal proceedings against any persons
25 identified in the application;

1 (2) make any publication whereby the informa-
2 tion furnished by any particular individual pursuant
3 to an application under this title can be identified;
4 or

5 (3) permit anyone other than an officer or em-
6 ployee of the United States Government or, in the
7 case of applications filed under this title with a des-
8 ignated entity, that designated entity, to examine
9 applications filed under this title.

10 (b) REQUIRED DISCLOSURE.—The Attorney General
11 or the Secretary of Homeland Security shall provide the
12 information furnished under this section, and any other
13 information derived from such furnished information, to—

14 (1) a duly recognized law enforcement entity in
15 connection with an investigation or prosecution of an
16 offense described in paragraph (2) or (3) of section
17 212(a) of the Immigration and Nationality Act (8
18 U.S.C. 1182(a)), when such information is requested
19 in writing by such entity; or

20 (2) an official coroner for purposes of affirma-
21 tively identifying a deceased individual (whether or
22 not such individual is deceased as a result of a
23 crime).

1 (c) PENALTY.—Whoever knowingly uses, publishes,
2 or permits information to be examined in violation of this
3 section shall be fined not more than \$10,000.

4 **SEC. 3310. EXPEDITED PROCESSING OF APPLICATIONS;**
5 **PROHIBITION ON FEES.**

6 Regulations promulgated under this title shall pro-
7 vide that applications under this title will be considered
8 on an expedited basis and without a requirement for the
9 payment by the applicant of any additional fee for such
10 expedited processing.

11 **SEC. 3311. HIGHER EDUCATION ASSISTANCE.**

12 Notwithstanding any provision of the Higher Edu-
13 cation Act of 1965 (20 U.S.C. 1001 et seq.), with respect
14 to assistance provided under title IV of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1070 et seq.), an alien who
16 adjusts status to that of a lawful permanent resident
17 under this title shall be eligible only for the following as-
18 sistance under such title:

19 (1) Student loans under parts B, D, and E of
20 such title IV (20 U.S.C. 1071 et seq., 1087a et seq.,
21 1087aa et seq.), subject to the requirements of such
22 parts.

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

1 (3) Services under such title IV (20 U.S.C.
2 1070 et seq.), subject to the requirements for such
3 services.

4 **SEC. 3312. GAO REPORT.**

5 Not later than seven years after the date of enact-
6 ment of this title, the Comptroller General of the United
7 States shall submit a report to the Committee on the Judi-
8 ciary of the Senate and the Committee on the Judiciary
9 of the House of Representatives setting forth—

10 (1) the number of aliens who were eligible for
11 cancellation of removal and adjustment of status
12 under section 3303(a);

13 (2) the number of aliens who applied for adjust-
14 ment of status under section 3303(a);

15 (3) the number of aliens who were granted ad-
16 justment of status under section 3303(a); and

17 (4) the number of aliens whose conditional per-
18 manent resident status was removed under section
19 3304.