

114TH CONGRESS
2D SESSION

S. 3542

To provide provisional protected presence to qualified individuals who came to the United States as children.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2016

Mr. GRAHAM (for himself, Mr. DURBIN, Ms. MURKOWSKI, Mrs. FEINSTEIN, Mr. FLAKE, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide provisional protected presence to qualified individuals who came to the United States as children.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bar Removal of Indi-
5 viduals who Dream and Grow our Economy Act” or the
6 “BRIDGE Act”.

1 **SEC. 2. PROVISIONAL PROTECTED PRESENCE FOR YOUNG**
 2 **INDIVIDUALS.**

3 (a) IN GENERAL.—Chapter 4 of title II of the Immi-
 4 gration and Nationality Act (8 U.S.C. 1221 et seq.) is
 5 amended by adding at the end the following:

6 **“SEC. 244A. PROVISIONAL PROTECTED PRESENCE.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) DACA RECIPIENT.—The term ‘DACA re-
 9 cipient’ means an alien who is in deferred action sta-
 10 tus on the date of the enactment of this section pur-
 11 suant to the Deferred Action for Childhood Arrivals
 12 (‘DACA’) Program announced on June 15, 2012.

13 “(2) FELONY.—The term ‘felony’ means a Fed-
 14 eral, State, or local criminal offense punishable by
 15 imprisonment for a term exceeding one year.

16 “(3) MISDEMEANOR.—The term ‘misdemeanor’
 17 means a Federal, State, or local criminal offense
 18 (excluding a significant misdemeanor) for which—

19 “(A) the maximum term of imprisonment
 20 is greater than five days and not greater than
 21 one year; and

22 “(B) the individual was sentenced to time
 23 in custody of 90 days or less.

24 “(4) SECRETARY.—The term ‘Secretary’ means
 25 the Secretary of Homeland Security.

1 “(5) SIGNIFICANT MISDEMEANOR.—The term
2 ‘significant misdemeanor’ means a Federal, State, or
3 local criminal offense for which the maximum term
4 of imprisonment is greater than five days and not
5 greater than one year that—

6 “(A) regardless of the sentence imposed, is
7 an offense of domestic violence, sexual abuse or
8 exploitation, burglary, unlawful possession or
9 use of a firearm, drug distribution or traf-
10 ficking, or driving under the influence if the
11 State law requires, as an element of the offense,
12 a finding of impairment or a blood alcohol con-
13 tent of .08 or higher; or

14 “(B) resulted in a sentence of time in cus-
15 tody of more than 90 days, excluding an offense
16 for which the sentence was suspended.

17 “(6) THREAT TO NATIONAL SECURITY.—An
18 alien is a ‘threat to national security’ if the alien
19 is—

20 “(A) inadmissible under section 212(a)(3);

21 or

22 “(B) deportable under section 237(a)(4).

23 “(7) THREAT TO PUBLIC SAFETY.—An alien is
24 a ‘threat to public safety’ if the alien—

1 “(A) has been convicted of an offense for
2 which an element was participation in a crimi-
3 nal street gang (as defined in section 521(a) of
4 title 18, United States Code); or

5 “(B) has engaged in a continuing criminal
6 enterprise (as defined in section 408(c) of the
7 Comprehensive Drug Abuse Prevention and
8 Control Act of 1970 (21 U.S.C. 848(c)).

9 “(b) AUTHORIZATION.—The Secretary—

10 “(1) shall grant provisional protected presence
11 to an alien who files an application demonstrating
12 that he or she meets the eligibility criteria under
13 subsection (c) and pays the appropriate application
14 fee;

15 “(2) may not remove such alien from the
16 United States during the period in which such provi-
17 sional protected presence is in effect unless such sta-
18 tus is rescinded pursuant to subsection (g); and

19 “(3) shall provide such alien with employment
20 authorization.

21 “(c) ELIGIBILITY CRITERIA.—An alien is eligible for
22 provisional protected presence under this section and em-
23 ployment authorization if the alien—

24 “(1) was born after June 15, 1981;

1 “(2) entered the United States before attaining
2 16 years of age;

3 “(3) continuously resided in the United States
4 between June 15, 2007, and the date on which the
5 alien files an application under this section;

6 “(4) was physically present in the United
7 States on June 15, 2012, and on the date on which
8 the alien files an application under this section;

9 “(5) was unlawfully present in the United
10 States on June 15, 2012;

11 “(6) on the date on which the alien files an ap-
12 plication for provisional protected presence—

13 “(A) is enrolled in school or in an edu-
14 cation program assisting students in obtaining
15 a regular high school diploma or its recognized
16 equivalent under State law, or in passing a gen-
17 eral educational development exam or other
18 State-authorized exam;

19 “(B) has graduated or obtained a certifi-
20 cate of completion from high school;

21 “(C) has obtained a general educational
22 development certificate; or

23 “(D) is an honorably discharged veteran of
24 the Coast Guard or Armed Forces of the
25 United States;

1 “(7) has not been convicted of—

2 “(A) a felony;

3 “(B) a significant misdemeanor; or

4 “(C) three or more misdemeanors not oc-
5 ccurring on the same date and not arising out of
6 the same act, omission, or scheme of mis-
7 conduct; and

8 “(8) does not otherwise pose a threat to na-
9 tional security or a threat to public safety.

10 “(d) DURATION OF PROVISIONAL PROTECTED PRES-
11 ENCE AND EMPLOYMENT AUTHORIZATION.—Provisional
12 protected presence and the employment authorization pro-
13 vided under this section shall be effective until the date
14 that is three years after the date of the enactment of this
15 section.

16 “(e) STATUS DURING PERIOD OF PROVISIONAL PRO-
17 TECTED PRESENCE.—

18 “(1) IN GENERAL.—An alien granted provi-
19 sional protected presence is not considered to be un-
20 lawfully present in the United States during the pe-
21 riod beginning on the date such status is granted
22 and ending on the date described in subsection (d).

23 “(2) STATUS OUTSIDE PERIOD.—The granting
24 of provisional protected presence under this section

1 does not excuse previous or subsequent periods of
2 unlawful presence.

3 “(f) APPLICATION.—

4 “(1) AGE REQUIREMENT.—

5 “(A) IN GENERAL.—An alien who has
6 never been in removal proceedings, or whose
7 proceedings have been terminated before mak-
8 ing a request for provisional protected presence,
9 shall be at least 15 years old on the date on
10 which the alien submits an application under
11 this section.

12 “(B) EXCEPTION.—The age requirement
13 set forth in subparagraph (A) shall not apply to
14 an alien who, on the date on which the alien ap-
15 plies for provisional protected status, is in re-
16 moval proceedings, has a final removal order, or
17 has a voluntary departure order, and who is not
18 in immigration detention.

19 “(2) APPLICATION FEE.—

20 “(A) IN GENERAL.—The Secretary may re-
21 quire aliens applying for provisional protected
22 presence under this section to pay a reasonable
23 fee that is commensurate with the cost of proc-
24 essing the application.

1 “(B) EXEMPTION.—An applicant may be
2 exempted from paying the fee required under
3 subparagraph (A) if the alien—

4 “(i)(I) is younger than 18 years of
5 age;

6 “(II) received total income during the
7 12-month period immediately preceding the
8 date on which the alien files an application
9 under this section that is less than 150
10 percent of the United States poverty level;
11 and

12 “(III) is in foster care or otherwise
13 lacking any parental or other familial sup-
14 port;

15 “(ii) is younger than 18 years of age
16 and is homeless;

17 “(iii)(I) cannot care for himself or
18 herself because of a serious, chronic dis-
19 ability; and

20 “(II) received total income during the
21 12-month period immediately preceding the
22 date on which the alien files an application
23 under this section that is less than 150
24 percent of the United States poverty level;
25 or

1 “(iv)(I) as of the date on which the
2 alien files an application under this sec-
3 tion, has accumulated \$10,000 or more in
4 debt in the past 12 months as a result of
5 unreimbursed medical expenses incurred by
6 the alien or an immediate family member
7 of the alien; and

8 “(II) received total income during the
9 12-month period immediately preceding the
10 date on which the alien files an application
11 under this section that is less than 150
12 percent of the United States poverty level.

13 “(3) REMOVAL STAYED WHILE APPLICATION
14 PENDING.—The Secretary may not remove an alien
15 from the United States who appears *prima facie* eli-
16 gible for provisional protected presence while the
17 alien’s application for provisional protected presence
18 is pending.

19 “(4) SPECIAL CIRCUMSTANCES.—An alien who
20 is in removal proceedings, is the subject of a final
21 removal order, or is the subject of a voluntary depart-
22 ure order may apply for provisional protected pres-
23 ence under this section if the alien—

24 “(A) appears *prima facie* eligible for provi-
25 sional protected presence; and

1 “(B) is not in immigration detention.

2 “(5) ALIENS IN IMMIGRATION DETENTION.—

3 The Secretary shall provide any alien in immigration
4 detention who appears prima facie eligible for provi-
5 sional protected presence, upon request, with a rea-
6 sonable opportunity to apply for provisional pro-
7 tected presence under this section.

8 “(6) CONFIDENTIALITY.—

9 “(A) IN GENERAL.—The Secretary shall
10 protect information provided in applications for
11 provisional protected presence under this sec-
12 tion and in requests for consideration of DACA
13 from disclosure to U.S. Immigration and Cus-
14 toms Enforcement and U.S. Customs and Bor-
15 der Protection for the purpose of immigration
16 enforcement proceedings.

17 “(B) REFERRALS PROHIBITED.—The Sec-
18 retary may not refer individuals whose cases
19 have been deferred pursuant to DACA or who
20 have been granted provisional protected pres-
21 ence under this section to U.S. Immigration
22 and Customs Enforcement.

23 “(C) LIMITED EXCEPTION.—The informa-
24 tion submitted in applications for provisional
25 protected presence under this section and in re-

1 quests for consideration of DACA may be
2 shared with national security and law enforce-
3 ment agencies—

4 “(i) for assistance in the consideration
5 of the application for provisional protected
6 presence;

7 “(ii) to identify or prevent fraudulent
8 claims;

9 “(iii) for national security purposes;
10 and

11 “(iv) for the investigation or prosecu-
12 tion of any felony not related to immigra-
13 tion status.

14 “(g) RESCISSION OF PROVISIONAL PROTECTED
15 PRESENCE.—The Secretary may not rescind an alien’s
16 provisional protected presence or employment authoriza-
17 tion granted under this section unless the Secretary deter-
18 mines that the alien—

19 “(1) has been convicted of—

20 “(A) a felony;

21 “(B) a significant misdemeanor; or

22 “(C) three or more misdemeanors not oc-
23 curring on the same date and not arising out of
24 the same act, omission, or scheme of mis-
25 conduct;

1 “(2) poses a threat to national security or a
2 threat to public safety;

3 “(3) has traveled outside of the United States
4 without authorization from the Secretary; or

5 “(4) has ceased to continuously reside in the
6 United States.

7 “(h) TREATMENT OF BRIEF, CASUAL, AND INNO-
8 CENT DEPARTURES AND CERTAIN OTHER ABSENCES.—
9 For purposes of subsections (c)(3) and (g)(4), an alien
10 shall not be considered to have failed to continuously re-
11 side in the United States due to—

12 “(1) brief, casual, and innocent absences from
13 the United States during the period beginning on
14 June 15, 2007, and ending on August 14, 2012; or

15 “(2) travel outside of the United States on or
16 after August 15, 2012, if such travel was authorized
17 by the Secretary.

18 “(i) EFFECT OF DEFERRED ACTION UNDER DE-
19 FERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—

20 “(1) PROVISIONAL PROTECTED PRESENCE.—A
21 DACA recipient is deemed to have provisional pro-
22 tected presence under this section through the expi-
23 ration date of the alien’s deferred action status, as
24 specified by the Secretary in conjunction with the
25 approval of the alien’s DACA application.

1 “(2) EMPLOYMENT AUTHORIZATION.—If a
2 DACA recipient has been granted employment au-
3 thorization by the Secretary in addition to deferred
4 action, the employment authorization shall continue
5 through the expiration date of the alien’s deferred
6 action status, as specified by the Secretary in con-
7 junction with the approval of the alien’s DACA ap-
8 plication.

9 “(3) EFFECT OF APPLICATION.—If a DACA re-
10 cipient files an application for provisional protected
11 presence under this section not later than the expi-
12 ration date of the alien’s deferred action status, as
13 specified by the Secretary in conjunction with the
14 approval of the alien’s DACA application, the alien’s
15 provisional protected presence, and any employment
16 authorization, shall remain in effect pending the ad-
17 judication of such application.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 for the Immigration and Nationality Act (8 U.S.C. 1101
20 note) is amended by inserting after the item relating to
21 section 244 the following:

“Sec. 244A. Provisional protected presence.”.

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