

115TH CONGRESS
1ST SESSION

S. 128

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

IN THE SENATE OF THE UNITED STATES

JANUARY 12, 2017

Mr. GRAHAM (for himself, Mr. DURBIN, Ms. MURKOWSKI, Mrs. FEINSTEIN, Mr. FLAKE, Mr. SCHUMER, and Ms. HARRIS) 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 (excluding a
15 State or local offense for which an essential element
16 was the alien’s immigration status) punishable by
17 imprisonment for a term exceeding one year.

18 “(3) MISDEMEANOR.—The term ‘misdemeanor’
19 means a Federal, State, or local criminal offense
20 (excluding a State or local offense for which an es-
21 sential element was the alien’s immigration status, a
22 significant misdemeanor, and a minor traffic of-
23 fense) for which—

24 “(A) the maximum term of imprisonment
25 is greater than five days and not greater than
26 one year; and

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

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

5 “(5) SIGNIFICANT MISDEMEANOR.—The term
6 ‘significant misdemeanor’ means a Federal, State, or
7 local criminal offense (excluding a State or local of-
8 fense for which an essential element was the alien’s
9 immigration status) for which the maximum term of
10 imprisonment is greater than five days and not
11 greater than one year that—

12 “(A) regardless of the sentence imposed, is
13 a crime of domestic violence (as defined in sec-
14 tion 237(a)(2)(E)(i)) or an offense of sexual
15 abuse or exploitation, burglary, unlawful posses-
16 sion or use of a firearm, drug distribution or
17 trafficking, or driving under the influence if the
18 State law requires, as an element of the offense,
19 the operation of a motor vehicle and a finding
20 of impairment or a blood alcohol content of .08
21 or higher; or

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

1 “(6) THREAT TO NATIONAL SECURITY.—An
2 alien is a ‘threat to national security’ if the alien
3 is—

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

5 or

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

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

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

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

17 “(b) AUTHORIZATION.—The Secretary—

18 “(1) shall grant provisional protected presence
19 to an alien who files an application demonstrating
20 that he or she meets the eligibility criteria under
21 subsection (c) and pays the appropriate application
22 fee;

23 “(2) may not remove such alien from the
24 United States during the period in which such provi-

1 sional protected presence is in effect unless such sta-
2 tus is rescinded pursuant to subsection (g); and

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

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

8 “(1) was born after June 15, 1981;

9 “(2) entered the United States before attaining
10 16 years of age;

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

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

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

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

21 “(A) is enrolled in school or in an edu-
22 cation program assisting students in obtaining
23 a regular high school diploma or its recognized
24 equivalent under State law, or in passing a gen-

1 eral educational development exam or other
2 State-authorized exam;

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

5 “(C) has obtained a general educational
6 development certificate; or

7 “(D) is an honorably discharged veteran of
8 the Coast Guard or Armed Forces of the
9 United States;

10 “(7) has not been convicted of—

11 “(A) a felony;

12 “(B) a significant misdemeanor; or

13 “(C) three or more misdemeanors not oc-
14 ccurring on the same date and not arising out of
15 the same act, omission, or scheme of mis-
16 conduct; and

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

19 “(d) DURATION OF PROVISIONAL PROTECTED PRES-
20 ENCE AND EMPLOYMENT AUTHORIZATION.—Provisional
21 protected presence and the employment authorization pro-
22 vided under this section shall be effective until the date
23 that is three years after the date of the enactment of this
24 section.

1 “(e) STATUS DURING PERIOD OF PROVISIONAL PRO-
2 TECTED PRESENCE.—

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

8 “(2) STATUS OUTSIDE PERIOD.—The granting
9 of provisional protected presence under this section
10 does not excuse previous or subsequent periods of
11 unlawful presence.

12 “(f) APPLICATION.—

13 “(1) AGE REQUIREMENT.—

14 “(A) IN GENERAL.—An alien who has
15 never been in removal proceedings, or whose
16 proceedings have been terminated before mak-
17 ing a request for provisional protected presence,
18 shall be at least 15 years old on the date on
19 which the alien submits an application under
20 this section.

21 “(B) EXCEPTION.—The age requirement
22 set forth in subparagraph (A) shall not apply to
23 an alien who, on the date on which the alien ap-
24 plies for provisional protected presence, is in re-

1 removal proceedings, has a final removal order, or
2 has a voluntary departure order.

3 “(2) APPLICATION FEE.—

4 “(A) IN GENERAL.—The Secretary may re-
5 quire aliens applying for provisional protected
6 presence and employment authorization under
7 this section to pay a reasonable fee that is com-
8 mensurate with the cost of processing the appli-
9 cation.

10 “(B) EXEMPTION.—An applicant may be
11 exempted from paying the fee required under
12 subparagraph (A) if the alien—

13 “(i)(I) is younger than 18 years of
14 age;

15 “(II) received total income during the
16 12-month period immediately preceding the
17 date on which the alien files an application
18 under this section that is less than 150
19 percent of the United States poverty level;
20 and

21 “(III) is in foster care or otherwise
22 lacking any parental or other familial sup-
23 port;

24 “(ii) is younger than 18 years of age
25 and is homeless;

1 “(iii)(I) cannot care for himself or
2 herself because of a serious, chronic dis-
3 ability; and

4 “(II) received total income during the
5 12-month period immediately preceding the
6 date on which the alien files an application
7 under this section that is less than 150
8 percent of the United States poverty level;
9 or

10 “(iv)(I) as of the date on which the
11 alien files an application under this sec-
12 tion, has accumulated \$10,000 or more in
13 debt in the past 12 months as a result of
14 unreimbursed medical expenses incurred by
15 the alien or an immediate family member
16 of the alien; and

17 “(II) received total income during the
18 12-month period immediately preceding the
19 date on which the alien files an application
20 under this section that is less than 150
21 percent of the United States poverty level.

22 “(3) REMOVAL STAYED WHILE APPLICATION
23 PENDING.—The Secretary may not remove an alien
24 from the United States who appears *prima facie* eli-
25 gible for provisional protected presence while the

1 alien’s application for provisional protected presence
2 is pending.

3 “(4) ALIENS NOT IN IMMIGRATION DETEN-
4 TION.—An alien who is not in immigration deten-
5 tion, but who is in removal proceedings, is the sub-
6 ject of a final removal order, or is the subject of a
7 voluntary departure order, may apply for provisional
8 protected presence under this section if the alien ap-
9 pears prima facie eligible for provisional protected
10 presence.

11 “(5) ALIENS IN IMMIGRATION DETENTION.—
12 The Secretary shall provide any alien in immigration
13 detention, including any alien who is in removal pro-
14 ceedings, is the subject of a final removal order, or
15 is the subject of a voluntary departure order, who
16 appears prima facie eligible for provisional protected
17 presence, upon request, with a reasonable oppor-
18 tunity to apply for provisional protected presence
19 under this section.

20 “(6) CONFIDENTIALITY.—

21 “(A) IN GENERAL.—The Secretary shall
22 protect information provided in applications for
23 provisional protected presence under this sec-
24 tion and in requests for consideration of DACA
25 from disclosure to U.S. Immigration and Cus-

1 toms Enforcement and U.S. Customs and Bor-
2 der Protection for the purpose of immigration
3 enforcement proceedings.

4 “(B) REFERRALS PROHIBITED.—The Sec-
5 retary may not refer individuals whose cases
6 have been deferred pursuant to DACA or who
7 have been granted provisional protected pres-
8 ence under this section to U.S. Immigration
9 and Customs Enforcement.

10 “(C) LIMITED EXCEPTION.—The informa-
11 tion submitted in applications for provisional
12 protected presence under this section and in re-
13 quests for consideration of DACA may be
14 shared with national security and law enforce-
15 ment agencies—

16 “(i) for assistance in the consideration
17 of the application for provisional protected
18 presence;

19 “(ii) to identify or prevent fraudulent
20 claims;

21 “(iii) for national security purposes;
22 and

23 “(iv) for the investigation or prosecu-
24 tion of any felony not related to immigra-
25 tion status.

1 “(7) ACCEPTANCE OF APPLICATIONS.—Not
2 later than 60 days after the date of the enactment
3 of this section, the Secretary shall begin accepting
4 applications for provisional protected presence and
5 employment authorization.

6 “(g) RESCISSION OF PROVISIONAL PROTECTED
7 PRESENCE.—The Secretary may not rescind an alien’s
8 provisional protected presence or employment authoriza-
9 tion granted under this section unless the Secretary deter-
10 mines that the alien—

11 “(1) has been convicted of—

12 “(A) a felony;

13 “(B) a significant misdemeanor; or

14 “(C) three or more misdemeanors not oc-
15 ccurring on the same date and not arising out of
16 the same act, omission, or scheme of mis-
17 conduct;

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

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

22 “(4) has ceased to continuously reside in the
23 United States.

24 “(h) TREATMENT OF BRIEF, CASUAL, AND INNO-
25 CENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

1 For purposes of subsections (c)(3) and (g)(4), an alien
2 shall not be considered to have failed to continuously re-
3 side in the United States due to—

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

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

10 “(i) TREATMENT OF EXPUNGED CONVICTIONS.—For
11 purposes of subsections (c)(7) and (g)(1), an expunged
12 conviction shall not automatically be treated as a disquali-
13 fying felony, significant misdemeanor, or misdemeanor,
14 but shall be evaluated on a case-by-case basis according
15 to the nature and severity of the offense to determine
16 whether, under the particular circumstances, the alien
17 should be eligible for provisional protected presence under
18 this section.

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

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

1 specified by the Secretary in conjunction with the
2 approval of the alien’s DACA application.

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

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

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

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

