

THE FUTURE OF THE DREAM ACT – LEGISLATION TO OPEN OPPORTUNITIES FOR YOUNG UNDOCUMENTED IMMIGRANTS

by Robert W. Glover, University of Maine

On June 15, 2012, President Barack Obama announced that the Department of Homeland Security would henceforth use executive discretion to stop deporting young undocumented migrants who were brought to the United States as children, and allow many to apply for a conditional form of legal residency. Immigrant advocacy organizations hailed Obama's move, while critics lambasted the measure as an improper grant of "amnesty."

Some call Obama's shift a "mini-Dream" approach, because it resembles legislation introduced in Congress for the "Development, Relief, and Education for Alien Minors" – commonly known as the DREAM Act. The objectives are similar, and the administration has formalized an important shift in U.S. immigration enforcement. Yet Obama's executive action remains subject to reversal and cannot secure many vital rights, so the struggle to pass more comprehensive and enduring legislation will continue.

What Does the DREAM Act Do?

As a comprehensive immigration overhaul has proved elusive, the DREAM Act has emerged as the next step for reformers. Introduced in Congress in various incarnations since 2001, this legislation would assure legal residency to the roughly two million young people who currently reside in this country without legal status. There are several specifications. Applicants must have come to this country before the age of 16 and be able to prove five years of residency. They must have gained their high school diploma or equivalency, and have a clean criminal record. Accepted applicants would be granted six years of legal residency during which they would need to complete at least two years of higher education or two years of military service. After six years, if these expectations are met, participants would be able to apply for full American citizenship.

For the stipulated six years, DREAM participants would be legally able to live, work, and drive in the United States. Those attending college would be eligible for in-state tuition, and would also be able to obtain federal student loans and participate in work-study programs. In addition, DREAM participants would be able to travel into and out of the United States (something undocumented immigrants may be reluctant to attempt for fear of being barred from re-entry).

The DREAM proposal explicitly applies only to younger people in the undocumented population. Applicants must be under a certain age at the time legislation is enacted (the age limit has ranged between 25 and 35 in different versions of the bill). For Obama's executive action, the age limit is set at 30 years.

Arguments for and against the DREAM Act

Proponents argue for the DREAM approach on both pragmatic and moral grounds. Young immigrants possess talents and skills currently wasted, they point out. A recent study from the North American Integration and Development Center at the University of California, Los Angeles, suggests that DREAM Act beneficiaries who attain higher educations could contribute between 1.4 and 3.6 trillion dollars to the U.S. economy over the next forty years. Furthermore, the DREAM Act could greatly assist military recruitment.

Ethical arguments are also important. The individuals to be covered by this legislation did not “choose” to come to this country, because they arrived as children, usually brought by their parents. To deny them later educational and career opportunities would be, in effect, to penalize children. Such unfairness was the rationale invoked in 1982 when the U.S. courts struck down state-level statutes barring undocumented immigrant children from attending public schools. Proponents also argue that the DREAM Act offers our country a way to bring undocumented young adults “out of the shadows,” protect them from unscrupulous employers or landlords, and allow them to contribute to the country they know as home.

Opponents argue against DREAM provisions with equal fervor. Many maintain that the bill constitutes “amnesty,” rewarding illegal acts by the parents of the offspring who would gain a path to citizenship. This will only encourage more illegal immigration in the future, they argue. Others argue that providing educational opportunities to undocumented immigrant children will increase unemployment in an already troubled U.S. economy.

With Legislation Stalled, What are the Prospects?

Over the past decade, DREAM bills have at times garnered support from leading Republicans like Senator Lindsey Graham of South Carolina and Senator John McCain of Arizona. But since 2007, the Republican Party has moved toward unanimously stressing border security along with the detention and deportation of undocumented people already in the country.

During Obama’s presidency, Republicans have united against any immigration legislation he supports. In late 2010, DREAM legislation passed the Democratic-led House 216-198, but Senate Majority Leader Harry Reid was unable to secure the 60 votes needed to prevent a filibuster in his chamber. In 2011, a very conservative Republican majority took office in the House, making a new legislative push impossible for now.

For as long as it lasts, President Obama’s deferred enforcement policy gives undocumented young people some peace of mind. And some states are attempting to implement approximations of DREAM reforms, allowing undocumented students to qualify for in-state tuition and private scholarships. However, immigration policy remains largely a federal prerogative, as the Supreme Court recently affirmed. Executive enforcement could change when a new president arrives. Only an act of Congress can create an enduring path to citizenship – and getting Congress to act will require the election of new, supportive legislators, plus a modicum of bipartisan cooperation.

Activism and advocacy for the DREAM Act will continue, emboldened by President Obama’s very public support. Immigration reform legislation, when it comes, surely must include not only border security but also opportunities for young undocumented immigrants seeking to achieve the American dream. The question is how long legal opportunities will be deferred.