

How the U.S. Citizenship Act Impacts Children

The U.S. Citizenship Act was introduced in February 2021 by Senator Bob Menendez (D-NJ) and Representative Linda Sanchez (D-CA). Immigration policies have a direct impact on the health and wellbeing of children—those who are immigrants themselves as well as those who have immigrant parents—and therefore it is critical that immigration reform address their specific needs. This fact sheet provides an overview of how the U.S. Citizenship Act (USCA) impacts children and families.

Path to Citizenship

The USCA would provide an 8-year path to citizenship to many of the estimated 11 million unauthorized immigrants living in the United States, as well as an expedited path to citizenship for Temporary Protected Status (TPS) holders, individuals who entered the country as children (also known as “Dreamers,” including recipients of the Deferred Action for Childhood Arrivals (DACA) program), and farmworkers. Specifically, the bill would:

- Provide work authorization and lawful prospective immigrant (LPI) status for six-year renewable terms to immigrants who meet the eligibility requirements. After five years of LPI status, recipients would be eligible to adjust for lawful permanent resident (LPR) status (also known as a green card) as long as they meet certain requirements.
- Make Dreamers who meet certain requirements immediately eligible to adjust to LPR status, as well as their spouses and minor children.¹
- Make TPS holders and their spouses and minor children immediately eligible to adjust to LPR status.
- Make farmworkers who meet certain requirements (including the ability to demonstrate at least 2,300 hours or 400 days of agricultural labor over the preceding 5 years) immediately eligible to adjust to LPR status, as well as their spouses and minor children.
- Shorten the time period for LPRs to be eligible to naturalize from five years to three years.

More than 5 million children, the vast majority of whom are U.S. citizens, live with at least one unauthorized parent. Providing their parents with work authorization and a path to citizenship can help

¹ See Dream Act summary for additional details. Note that the Dream Act provision of the USCA differs slightly from the Dream Act (S.264) and the American Dream and Promise Act (H.R.6).

promote children’s long-term safety and development by enabling their parents to better provide for them and by protecting families from separation as a result of immigration enforcement. Approximately 1 million children who are themselves unauthorized could also qualify for a path to citizenship under the legislation.

More than half-a-million U.S. citizen children have parents with either TPS or DACA who would benefit from the bill.² Under the bill, **more than 200,000** noncitizen spouses and minor children of TPS and DACA holders and **340,000** noncitizen spouses and minor children of farmworkers would also gain a path to citizenship.

The Dream Act

The USCA would provide an expedited path to citizenship for Dreamers, including a streamlined path for DACA recipients. To be eligible to adjust to LPR status, Dreamers would need to meet the following requirements³:

- Was under the age of 18 when first entered the United States.
- Earned a high school diploma or U.S. high school equivalency diploma, a “commensurate alternative award,” or a state-recognized general education development certificate.
- Meets at least one of the following requirements:
 - obtained a degree of higher education, or completed at least two years in good standing of a program leading up to a bachelor’s or higher degree or a recognized postsecondary credential from an area career or technical education school, OR
 - served at least two years in uniformed services and discharged honorably, if discharged, OR
 - can demonstrate earned income for at least three years total AND have had valid employment authorization for at least 75 percent of that time, with an exception for those noncitizens enrolled in an institution of higher education or career/technical education school.
- Passed criminal and national security background checks and paid applicable fees.

The Dream Act provision of the bill would provide **approximately 640,000 current DACA recipients** with the opportunity to immediately adjust to LPR status. DACA recipients who adjust under the bill would also be eligible for federal mortgages and certain federal health care benefits (see below). The Migration Policy Institute estimates that **approximately 1.3 million** Dreamers and DACA recipients could benefit from the legislation, as well as their noncitizen spouses and children. **Over a quarter-million** U.S. citizen children

² [Over 279,000 U.S. citizen children](#) have at least one parent with TPS, and [approximately 250,000 U.S. citizen children](#) have at least one parent with DACA.

³ The bill includes a hardship waiver for those who would be unable to meet the education, military service, or employment requirements.

have at least one parent with DACA, the majority of whom are young children.

The USCA would also help make higher education more affordable for undocumented students. It would do so by making it easier for states to determine in-state tuition eligibility for undocumented students based on residence by repealing the restriction under Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Protections for Unaccompanied Children and Families

The USCA includes important protections for unaccompanied children who enter the country without a parent or legal guardian in search of refuge, safety, or reunification with family members. Many of these protections also apply to children who arrive with their family.

Addressing the Root Causes of Child Migration

The U.S. Secretary of State must develop a four-year strategy to address key factors contributing to migration from Central America, including those specific to families and unaccompanied children. The strategy must include efforts that strengthen education, school safety, nutrition, and vocational programs for children and youth. The strategy must also support improving child protection systems in Central American countries, protecting children and youth from gang violence, conscription and recruitment, and protecting children from sexual, gender-based, and domestic violence and other forms of exploitation. These efforts would allow more children and families to remain safe and healthy in their home communities.

Regional Processing for Children

- In consultation with the Secretary of Homeland Security and international partners, the bill requires the Secretary of State to implement programs to strengthen the capacity of Western Hemisphere countries to receive refugees and asylum seekers, including conducting best interest determinations for unaccompanied children and creating safe shelters for children and families.
- The bill establishes a Central American Refugee Program for Central American children and families who express a fear of persecution or an intention to apply for refugee status. It also re-establishes the Central American Minor Program to reunite children with lawfully present parents and legal guardians in the United States.
- The bill authorizes funding for programs that promote the safe return of families and unaccompanied children to their countries of origin, including access to medical, psychosocial, educational, and vocational services.

Protections During Border Processing and Immigration Proceedings

Importantly, additional provisions in the USCA represent an expansion of consideration of the best interest of the child in immigration law. Previously, this standard only applied to the placement of children in

custody with the Office of Refugee Resettlement through the U.S. Department of Health and Human Services (HHS); under the bill, the standard would now also apply to immigration officials at the border. Specifically, the bill:

- Requires the Department of Homeland Security, in consultation with HHS, to develop guidelines and protocols for minimum standards of care for those in U.S. Customs and Border Protection (CBP) custody. The bill requires additional guidelines on the treatment of children in CBP custody in consultation with pediatricians and child welfare experts, all of whom must use the best interest of the child as a guiding principle. The guidelines must address 1) the care and custody of children, 2) a process to address allegations of child abuse and neglect and abuse in DHS custody, 3) the hiring of qualified child welfare and licensed medical professionals, 4) tracking family relationships, and 5) oversight by the DHS Inspector General and non-governmental organizations.
- Prohibits separation from a parent or legal guardian at the border to enforce immigration law.
- Requires CBP to increase its capacity to meet the medical needs of children. This includes training on pediatric care, sensitive locations, and interactions with vulnerable populations; medical supplies designed for children at each Border Patrol Section; and 24-hour access to pediatric health care professionals to consult on the medical needs of children. Training and guidelines would be created in consultation with national organizations having expertise in pediatric care.
- Requires DHS to limit detention, grant employment authorization, and pause deportations for survivors of 1) crimes within the United States, 2) trafficking, and 3) gender-based violence who are applying for legal relief.
- Requires immigration judges and members of the Board of Immigration Appeals to receive training in age sensitivity, gender sensitivity, and trauma sensitivity for examination of cases.
- Provides all sponsors of unaccompanied children with legal orientation to explain immigration proceedings; the rights, obligations, and protection for unaccompanied children during those proceedings; and the obligations of sponsors to provide for children's health and wellbeing, including ensuring protection from harm and access to education and health care.
- Requires the U.S. Attorney General to appoint counsel for children at the government's expense and extends legal representation to a child's family members where their cases are consolidated and there is no conflict of interest.

Services for Unaccompanied Children

The bill provides educational agencies serving 50 or more enrolled unaccompanied children access to grants to eliminate barriers, enhance opportunities for, and provide services to immigrant children and youth and their families.

Family Unity and Immigration Enforcement Provisions

In addition to the border-specific provisions outlined above, the bill includes provisions that would help families reunify and prevent them from being unnecessarily separated. Specifically, the bill:

- Allows individuals who were removed or voluntarily departed the United States on or after January 20, 2017, to apply for adjustment of status to LPI as long as they spent at least three continuous years in the United States prior to removal or departure, if determined to be in the interest of family unity or humanitarian purposes.
- Makes several improvements to the family-based immigration system to enable families to reunify sooner, such as reclassifying an LPR's spouse and children (and the spouse's children) as immediate relatives and increasing the per-country annual caps for family-sponsored immigrants.
- Expands the definition of "child" in immigration law to apply to the children of "permanent partners" (to include legal partnerships other than marriage).
- Clarifies that U.S. citizen parents who are legally recognized as a child's parent may pass citizenship/nationality on to their child.
- Repeals the punitive 3- and 10-year bars for immigrants who were unlawfully present in the United States (for 6 months to a year and over a year respectively), as well as the permanent bar for immigrants who were unlawfully present for more than a year and left (either because they were deported or left voluntarily) and returned without permission.
- Expands the use of alternatives to detention, including the family case management program. The bill requires that contracts for programs offering alternatives to detention be given to qualified nonprofit entities (such as community-based programs with child welfare expertise) instead of for-profit organizations.
- Provides waivers to the grounds of inadmissibility and deportability in cases where an individual's removal or denial of their application would adversely affect the individual's U.S. citizen or LPR family members.
- Requires all CBP and Immigration and Customs Enforcement officers to undergo mandatory training and continuing education to promote accountability and safety, including on topics such as community policy, cultural awareness, and how to conduct enforcement activities near sensitive locations.⁴

⁴ Under current policy, [sensitive locations](#) include but are not limited to child care centers, schools, hospitals, and places of worship.

Access to Health Care, Public Benefits, and Income Supports

The bill does not remove current restrictions on immigrant eligibility for certain federal means-tested benefits. Under current law, eligibility for Medicaid, Children’s Health Insurance Program (CHIP), Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Supplemental Security Income (SSI) is generally limited to “qualified immigrants” who have been in that status for five years, with some exceptions.⁵ Individuals in LPI status are not considered qualified immigrants, and so the five-year waiting period would not start until they get their green cards. Under the bill:

- Adults in LPI status would be ineligible for Medicaid, CHIP, SNAP, TANF, and SSI, and would have to wait up to five years after obtaining a green card to be eligible for these programs.⁶
- Pregnant women and children in LPI status would be eligible for Medicaid and CHIP if they live in a state that has adopted the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA) option to expand coverage to lawfully present children.
- Children in LPI status would be ineligible for SNAP, but once they adjust to LPR status they would not have to wait five years for SNAP as the waiting period only applies to adults.⁷
- Individuals in LPI status would not be eligible for premium assistance subsidies or tax credits under the Affordable Care Act (ACA).
- DACA recipients would be eligible for subsidies and tax credits under the ACA, and DACA recipients who adjust to LPR status would be immediately eligible for Medicaid or CHIP without a five-year waiting period. However, this waiver of the waiting period for Medicaid and CHIP does not apply to the spouses and minor children of DACA recipients who adjust to LPR status.
- As soon as individuals obtain LPI status, they would be able to get work-eligible Social Security numbers. This would allow them to qualify for refundable tax credits such as the Earned Income Tax Credit and Child Tax Credit and for unemployment insurance based on their employment history.

With the exception of DACA recipients, most immigrants would have to wait several years to access critical health care and nutrition assistance, putting them and their families at risk of poor health and developmental outcomes. Most immigrants who get on a path to citizenship through LPI status would

⁵ Medicaid for emergency services is available without regard to immigration status, and the CHIPRA option allows states to expand coverage to lawfully present pregnant women and children without a five-year waiting period.

⁶ The five-year waiting period does not apply to naturalized citizens, even if they become citizens within the five-year period.

⁷ Many children’s nutrition programs such as WIC and school meals are available without regard to immigration status.

have to wait at least eight years to be eligible for federal means-tested benefits. For children in LPI status, they could face a wait of up to 10 years to access certain federal means-tested benefits (depending on their age) because, while the bill shortens the time period for naturalization for LPRs from 5 years to 3 years, it does not change the requirement that an individual be at least 18 years old to apply for citizenship. TPS holders, farmworkers, and Dreamers (without DACA)—as well as their spouses and children—who adjust to LPR status under the bill would have to wait at least three years to be eligible for federal means-tested benefits, depending on when they apply for naturalization.

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