

AMENDMENT

OFFERED BY MS. GARCIA OF TEXAS

Add at the end the following:

1 **TITLE _____.—DREAM ACT OF**
2 **2022**

3 **SEC. ____ . SHORT TITLE.**

4 This title may be cited as the “Dream Act of 2022”.

5 **SEC. ____ . PERMANENT RESIDENT STATUS ON A CONDI-**
6 **TIONAL BASIS FOR CERTAIN LONG-TERM**
7 **RESIDENTS WHO ENTERED THE UNITED**
8 **STATES AS CHILDREN.**

9 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
10 standing any other provision of law, and except as pro-
11 vided in section 104(c)(2), an alien shall be considered,
12 at the time of obtaining the status of an alien lawfully
13 admitted for permanent residence under this section, to
14 have obtained such status on a conditional basis subject
15 to the provisions of this title.

16 (b) **REQUIREMENTS.**—

17 (1) **IN GENERAL.**—Notwithstanding any other
18 provision of law, the Secretary or the Attorney Gen-
19 eral shall adjust to the status of an alien lawfully
20 admitted for permanent residence on a conditional

1 basis, or without the conditional basis as provided in
2 section 104(c)(2), an alien who is inadmissible or de-
3 portable from the United States, is subject to a
4 grant of Deferred Enforced Departure, has tem-
5 porary protected status under section 244 of the Im-
6 migration and Nationality Act (8 U.S.C. 1254a), or
7 is the son or daughter of an alien admitted as a non-
8 immigrant under subparagraphs (E)(i), (E)(ii),
9 (H)(i)(b), or (L) of section 101(a)(15) of such Act
10 (8 U.S.C. 1101(a)(15)) if—

11 (A) the alien has been continuously phys-
12 ically present in the United States since Janu-
13 ary 1, 2021;

14 (B) the alien was 18 years of age or
15 younger on the date on which the alien entered
16 the United States and has continuously resided
17 in the United States since such entry;

18 (C) the alien—

19 (i) subject to paragraph (2), is not in-
20 admissible under paragraph (1), (6)(E),
21 (6)(G), (8), or (10) of section 212(a) of
22 the Immigration and Nationality Act (8
23 U.S.C. 1182(a));

24 (ii) has not ordered, incited, assisted,
25 or otherwise participated in the persecution

1 of any person on account of race, religion,
2 nationality, membership in a particular so-
3 cial group, or political opinion; and

4 (iii) is not barred from adjustment of
5 status under this title based on the crimi-
6 nal and national security grounds de-
7 scribed under subsection (c), subject to the
8 provisions of such subsection; and

9 (D) the alien—

10 (i) has been admitted to an institution
11 of higher education;

12 (ii) has been admitted to an area ca-
13 reer and technical education school at the
14 postsecondary level;

15 (iii) in the United States, has ob-
16 tained—

17 (I) a high school diploma or a
18 commensurate alternative award from
19 a public or private high school;

20 (II) a General Education Devel-
21 opment credential, a high school
22 equivalency diploma recognized under
23 State law, or another similar State-
24 authorized credential;

1 (III) a credential or certificate
2 from an area career and technical
3 education school at the secondary
4 level; or

5 (IV) a recognized postsecondary
6 credential; or

7 (iv) is enrolled in secondary school or
8 in an education program assisting students
9 in—

10 (I) obtaining a high school di-
11 ploma or its recognized equivalent
12 under State law;

13 (II) passing the General Edu-
14 cation Development test, a high school
15 equivalence diploma examination, or
16 other similar State-authorized exam;

17 (III) obtaining a certificate or
18 credential from an area career and
19 technical education school providing
20 education at the secondary level; or

21 (IV) obtaining a recognized post-
22 secondary credential.

23 (2) WAIVER OF GROUNDS OF INADMIS-
24 SIBILITY.—With respect to any benefit under this
25 title, and in addition to the waivers under subsection

1 (c)(2), the Secretary may waive the grounds of inad-
2 missibility under paragraph (1), (6)(E), (6)(G), or
3 (10)(D) of section 212(a) of the Immigration and
4 Nationality Act (8 U.S.C. 1182(a)) for humanitarian
5 purposes, for family unity, or because the waiver is
6 otherwise in the public interest.

7 (3) APPLICATION FEE.—

8 (A) IN GENERAL.—The Secretary may,
9 subject to an exemption under section 303(e),
10 require an alien applying under this section to
11 pay a reasonable fee that is commensurate with
12 the cost of processing the application but does
13 not exceed \$495.00.

14 (B) SPECIAL PROCEDURES FOR APPLI-
15 CANTS WITH DACA.—The Secretary shall estab-
16 lish a streamlined procedure for aliens who have
17 been granted DACA and who meet the require-
18 ments for renewal (under the terms of the pro-
19 gram in effect on January 1, 2017) to apply for
20 adjustment of status to that of an alien lawfully
21 admitted for permanent residence on a condi-
22 tional basis under this section, or without the
23 conditional basis as provided in section
24 104(c)(2). Such procedure shall not include a
25 requirement that the applicant pay a fee, except

1 that the Secretary may require an applicant
2 who meets the requirements for lawful permanent
3 residence without the conditional basis
4 under section 104(c)(2) to pay a fee that is
5 commensurate with the cost of processing the
6 application, subject to the exemption under section
7 303(c).

8 (4) BACKGROUND CHECKS.—The Secretary
9 may not grant an alien permanent resident status on
10 a conditional basis under this section until the requirements
11 of section 302 are satisfied.

12 (5) MILITARY SELECTIVE SERVICE.—An alien
13 applying for permanent resident status on a conditional
14 basis under this section, or without the conditional basis
15 as provided in section 104(c)(2), shall establish that the alien
16 has registered under the Military Selective Service Act (50 U.S.C.
17 3801 et seq.), if the alien is subject to registration under
18 such Act.

19 (c) CRIMINAL AND NATIONAL SECURITY BARS.—

20 (1) GROUNDS OF INELIGIBILITY.—Except as
21 provided in paragraph (2), an alien is ineligible for
22 adjustment of status under this title (whether on a
23 conditional basis or without the conditional basis as
24

1 provided in section 104(c)(2)) if any of the following
2 apply:

3 (A) The alien is inadmissible under para-
4 graph (2) or (3) of section 212(a) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1182(a)).

6 (B) Excluding any offense under State law
7 for which an essential element is the alien's im-
8 migration status, and any minor traffic offense,
9 the alien has been convicted of—

10 (i) any felony offense;

11 (ii) three or more misdemeanor of-
12 fenses (excluding simple possession of can-
13 nabis or cannabis-related paraphernalia,
14 any offense involving cannabis or cannabis-
15 related paraphernalia which is no longer
16 prosecutable in the State in which the con-
17 viction was entered, and any offense involv-
18 ing civil disobedience without violence) not
19 occurring on the same date, and not aris-
20 ing out of the same act, omission, or
21 scheme of misconduct; or

22 (iii) a misdemeanor offense of domes-
23 tic violence, unless the alien demonstrates
24 that such crime is related to the alien hav-
25 ing been—

1 (I) a victim of domestic violence,
2 sexual assault, stalking, child abuse or
3 neglect, abuse or neglect in later life,
4 or human trafficking;

5 (II) battered or subjected to ex-
6 tremenous cruelty; or

7 (III) a victim of criminal activity
8 described in section 101(a)(15)(U)(iii)
9 of the Immigration and Nationality
10 Act (8 U.S.C. 1101(a)(15)(U)(iii)).

11 (2) WAIVERS FOR CERTAIN MISDEMEANORS.—
12 For humanitarian purposes, family unity, or if oth-
13 erwise in the public interest, the Secretary may—

14 (A) waive the grounds of inadmissibility
15 under subparagraphs (A), (C), and (D) of sec-
16 tion 212(a)(2) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1182(a)(2)), unless the con-
18 viction forming the basis for inadmissibility
19 would otherwise render the alien ineligible
20 under paragraph (1)(B) (subject to subpara-
21 graph (B)); and

22 (B) for purposes of clauses (ii) and (iii) of
23 paragraph (1)(B), waive consideration of—

24 (i) one misdemeanor offense if the
25 alien has not been convicted of any offense

1 in the 5-year period preceding the date on
2 which the alien applies for adjustment of
3 status under this title; or

4 (ii) up to two misdemeanor offenses if
5 the alien has not been convicted of any of-
6 fense in the 10-year period preceding the
7 date on which the alien applies for adjust-
8 ment of status under this title.

9 (3) AUTHORITY TO CONDUCT SECONDARY RE-
10 VIEW.—

11 (A) IN GENERAL.—Notwithstanding an
12 alien’s eligibility for adjustment of status under
13 this title, and subject to the procedures de-
14 scribed in this paragraph, the Secretary may,
15 as a matter of non-delegable discretion, provi-
16 sionally deny an application for adjustment of
17 status (whether on a conditional basis or with-
18 out the conditional basis as provided in section
19 104(c)(2)) if the Secretary, based on clear and
20 convincing evidence, which shall include credible
21 law enforcement information, determines that
22 the alien is described in subparagraph (B) or
23 (D).

24 (B) PUBLIC SAFETY.—An alien is de-
25 scribed in this subparagraph if—

1 (i) excluding simple possession of can-
2 nabis or cannabis-related paraphernalia,
3 any offense involving cannabis or cannabis-
4 related paraphernalia which is no longer
5 prosecutable in the State in which the con-
6 viction was entered, any offense under
7 State law for which an essential element is
8 the alien's immigration status, any offense
9 involving civil disobedience without vio-
10 lence, and any minor traffic offense, the
11 alien—

12 (I) has been convicted of a mis-
13 demeanor offense punishable by a
14 term of imprisonment of more than
15 30 days; or

16 (II) has been adjudicated delin-
17 quent in a State or local juvenile court
18 proceeding that resulted in a disposi-
19 tion ordering placement in a secure
20 facility; and

21 (ii) the alien poses a significant and
22 continuing threat to public safety related
23 to such conviction or adjudication.

24 (C) PUBLIC SAFETY DETERMINATION.—

25 For purposes of subparagraph (B)(ii), the Sec-

1 retary shall consider the recency of the convic-
2 tion or adjudication; the length of any imposed
3 sentence or placement; the nature and serious-
4 ness of the conviction or adjudication, including
5 whether the elements of the offense include the
6 unlawful possession or use of a deadly weapon
7 to commit an offense or other conduct intended
8 to cause serious bodily injury; and any miti-
9 gating factors pertaining to the alien's role in
10 the commission of the offense.

11 (D) GANG PARTICIPATION.—An alien is
12 described in this subparagraph if the alien has,
13 within the 5 years immediately preceding the
14 date of the application, knowingly, willfully, and
15 voluntarily participated in offenses committed
16 by a criminal street gang (as described in sub-
17 sections (a) and (c) of section 521 of title 18,
18 United States Code) with the intent to promote
19 or further the commission of such offenses.

20 (E) EVIDENTIARY LIMITATION.—For pur-
21 poses of subparagraph (D), allegations of gang
22 membership obtained from a State or Federal
23 in-house or local database, or a network of
24 databases used for the purpose of recording and
25 sharing activities of alleged gang members

1 across law enforcement agencies, shall not es-
2 tablish the participation described in such para-
3 graph.

4 (F) NOTICE.—

5 (i) IN GENERAL.—Prior to rendering
6 a discretionary decision under this para-
7 graph, the Secretary shall provide written
8 notice of the intent to provisionally deny
9 the application to the alien (or the alien's
10 counsel of record, if any) by certified mail
11 and, if an electronic mail address is pro-
12 vided, by electronic mail (or other form of
13 electronic communication). Such notice
14 shall—

15 (I) articulate with specificity all
16 grounds for the preliminary deter-
17 mination, including the evidence relied
18 upon to support the determination;
19 and

20 (II) provide the alien with not
21 less than 90 days to respond.

22 (ii) SECOND NOTICE.—Not more than
23 30 days after the issuance of the notice
24 under clause (i), the Secretary shall pro-

1 vide a second written notice that meets the
2 requirements of such clause.

3 (iii) NOTICE NOT RECEIVED.—Not-
4 withstanding any other provision of law, if
5 an applicant provides good cause for not
6 contesting a provisional denial under this
7 paragraph, including a failure to receive
8 notice as required under this subpara-
9 graph, the Secretary shall, upon a motion
10 filed by the alien, reopen an application for
11 adjustment of status under this title and
12 allow the applicant an opportunity to re-
13 spond, consistent with clause (i)(II).

14 (G) JUDICIAL REVIEW OF A PROVISIONAL
15 DENIAL.—

16 (i) IN GENERAL.—Notwithstanding
17 any other provision of law, if, after notice
18 and the opportunity to respond under sub-
19 paragraph (F), the Secretary provisionally
20 denies an application for adjustment of
21 status under this Act, the alien shall have
22 60 days from the date of the Secretary's
23 determination to seek review of such deter-
24 mination in an appropriate United States
25 district court.

1 (ii) SCOPE OF REVIEW AND DECI-
2 SION.—Notwithstanding any other provi-
3 sion of law, review under paragraph (1)
4 shall be de novo and based solely on the
5 administrative record, except that the ap-
6 plicant shall be given the opportunity to
7 supplement the administrative record and
8 the Secretary shall be given the oppor-
9 tunity to rebut the evidence and arguments
10 raised in such submission. Upon issuing its
11 decision, the court shall remand the mat-
12 ter, with appropriate instructions, to the
13 Department of Homeland Security to
14 render a final decision on the application.

15 (iii) APPOINTED COUNSEL.—Notwith-
16 standing any other provision of law, an ap-
17 plicant seeking judicial review under clause
18 (i) shall be represented by counsel. Upon
19 the request of the applicant, counsel shall
20 be appointed for the applicant, in accord-
21 ance with procedures to be established by
22 the Attorney General within 90 days of the
23 date of the enactment of this Act, and
24 shall be funded in accordance with fees col-

1 lected and deposited in the Immigration
2 Counsel Account under section 312.

3 (4) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) the term “felony offense” means an of-
6 fense under Federal or State law that is pun-
7 ishable by a maximum term of imprisonment of
8 more than 1 year;

9 (B) the term “misdemeanor offense”
10 means an offense under Federal or State law
11 that is punishable by a term of imprisonment of
12 more than 5 days but not more than 1 year;
13 and

14 (C) the term “crime of domestic violence”
15 means any offense that has as an element the
16 use, attempted use, or threatened use of phys-
17 ical force against a person committed by a cur-
18 rent or former spouse of the person, by an indi-
19 vidual with whom the person shares a child in
20 common, by an individual who is cohabiting
21 with or has cohabited with the person as a
22 spouse, by an individual similarly situated to a
23 spouse of the person under the domestic or
24 family violence laws of the jurisdiction where
25 the offense occurs, or by any other individual

1 against a person who is protected from that in-
2 dividual's acts under the domestic or family vio-
3 lence laws of the United States or any State,
4 Indian Tribal government, or unit of local gov-
5 ernment.

6 (d) **LIMITATION ON REMOVAL OF CERTAIN ALIEN**
7 **MINORS.**—An alien who is 18 years of age or younger and
8 meets the requirements under subparagraphs (A), (B),
9 and (C) of subsection (b)(1) shall be provided a reasonable
10 opportunity to meet the educational requirements under
11 subparagraph (D) of such subsection. The Attorney Gen-
12 eral or the Secretary may not commence or continue with
13 removal proceedings against such an alien.

14 (e) **WITHDRAWAL OF APPLICATION.**—The Secretary
15 shall, upon receipt of a request to withdraw an application
16 for adjustment of status under this section, cease proc-
17 essing of the application, and close the case. Withdrawal
18 of the application under this subsection shall not prejudice
19 any future application filed by the applicant for any immi-
20 gration benefit under this title or under the Immigration
21 and Nationality Act (8 U.S.C. 1101 et seq.).

22 **SEC. ____ . TERMS OF PERMANENT RESIDENT STATUS ON**
23 **A CONDITIONAL BASIS.**

24 (a) **PERIOD OF STATUS.**—Permanent resident status
25 on a conditional basis is—

1 (1) valid for a period of 10 years, unless such
2 period is extended by the Secretary; and

3 (2) subject to revocation under subsection (c).

4 (b) NOTICE OF REQUIREMENTS.—At the time an
5 alien obtains permanent resident status on a conditional
6 basis, the Secretary shall provide notice to the alien re-
7 garding the provisions of this title and the requirements
8 to have the conditional basis of such status removed.

9 (c) REVOCATION OF STATUS.—The Secretary may
10 revoke the permanent resident status on a conditional
11 basis of an alien only if the Secretary—

12 (1) determines that the alien ceases to meet the
13 requirements under section 102(b)(1)(C); and

14 (2) prior to the revocation, provides the alien—

15 (A) notice of the proposed revocation; and

16 (B) the opportunity for a hearing to pro-
17 vide evidence that the alien meets such require-
18 ments or otherwise to contest the proposed rev-
19 ocation.

20 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

21 An alien whose permanent resident status on a conditional
22 basis expires under subsection (a)(1) or is revoked under
23 subsection (c), shall return to the immigration status that
24 the alien had immediately before receiving permanent resi-
25 dent status on a conditional basis.

1 **SEC. _____. REMOVAL OF CONDITIONAL BASIS OF PERMA-**
2 **NENT RESIDENT STATUS.**

3 (a) **ELIGIBILITY FOR REMOVAL OF CONDITIONAL**
4 **BASIS.—**

5 (1) **IN GENERAL.—**Subject to paragraph (2),
6 the Secretary shall remove the conditional basis of
7 an alien’s permanent resident status granted under
8 this title and grant the alien status as an alien law-
9 fully admitted for permanent residence if the alien—

10 (A) is described in section 102(b)(1)(C);

11 (B) has not abandoned the alien’s resi-
12 dence in the United States during the period in
13 which the alien has permanent resident status
14 on a conditional basis; and

15 (C)(i) has obtained a degree from an insti-
16 tution of higher education, or has completed at
17 least 2 years, in good standing, of a program in
18 the United States leading to a bachelor’s degree
19 or higher degree or a recognized postsecondary
20 credential from an area career and technical
21 education school providing education at the
22 postsecondary level;

23 (ii) has served in the Uniformed Services
24 for at least 2 years and, if discharged, received
25 an honorable discharge; or

1 (iii) demonstrates earned income for peri-
2 ods totaling at least 3 years and at least 75
3 percent of the time that the alien has had a
4 valid employment authorization, except that, in
5 the case of an alien who was enrolled in an in-
6 stitution of higher education, an area career
7 and technical education school to obtain a rec-
8 ognized postsecondary credential, or an edu-
9 cation program described in section
10 102(b)(1)(D)(iii), the Secretary shall reduce
11 such total 3-year requirement by the total of
12 such periods of enrollment.

13 (2) **HARDSHIP EXCEPTION.**—The Secretary
14 shall remove the conditional basis of an alien’s per-
15 manent resident status and grant the alien status as
16 an alien lawfully admitted for permanent residence
17 if the alien—

18 (A) satisfies the requirements under sub-
19 paragraphs (A) and (B) of paragraph (1);

20 (B) demonstrates compelling circumstances
21 for the inability to satisfy the requirements
22 under subparagraph (C) of such paragraph; and

23 (C) demonstrates that—

24 (i) the alien has a disability;

1 (ii) the alien is a full-time caregiver;

2 or

3 (iii) the removal of the alien from the
4 United States would result in hardship to
5 the alien or the alien's spouse, parent, or
6 child who is a national of the United
7 States or is lawfully admitted for perma-
8 nent residence.

9 (3) CITIZENSHIP REQUIREMENT.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the conditional basis of an
12 alien's permanent resident status granted under
13 this title may not be removed unless the alien
14 demonstrates that the alien satisfies the re-
15 quirements under section 312(a) of the Immi-
16 gration and Nationality Act (8 U.S.C. 1423(a)).

17 (B) EXCEPTION.—Subparagraph (A) shall
18 not apply to an alien who is unable to meet the
19 requirements under such section 312(a) due to
20 disability.

21 (4) APPLICATION FEE.—The Secretary may,
22 subject to an exemption under section 303(c), re-
23 quire aliens applying for removal of the conditional
24 basis of an alien's permanent resident status under

1 this section to pay a reasonable fee that is commen-
2 surate with the cost of processing the application.

3 (5) BACKGROUND CHECKS.—The Secretary
4 may not remove the conditional basis of an alien’s
5 permanent resident status until the requirements of
6 section 302 are satisfied.

7 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
8 TION.—

9 (1) IN GENERAL.—For purposes of title III of
10 the Immigration and Nationality Act (8 U.S.C. 1401
11 et seq.), an alien granted permanent resident status
12 on a conditional basis shall be considered to have
13 been admitted to the United States, and be present
14 in the United States, as an alien lawfully admitted
15 for permanent residence.

16 (2) LIMITATION ON APPLICATION FOR NATU-
17 RALIZATION.—An alien may not apply for natu-
18 ralization while the alien is in permanent resident
19 status on a conditional basis.

20 (c) TIMING OF APPROVAL OF LAWFUL PERMANENT
21 RESIDENT STATUS.—

22 (1) IN GENERAL.—An alien granted permanent
23 resident status on a conditional basis under this title
24 may apply to have such conditional basis removed at

1 any time after such alien has met the eligibility re-
2 quirements set forth in subsection (a).

3 (2) APPROVAL WITH REGARD TO INITIAL APPLI-
4 CATIONS.—

5 (A) IN GENERAL.—Notwithstanding any
6 other provision of law, the Secretary or the At-
7 torney General shall adjust to the status of an
8 alien lawfully admitted for permanent resident
9 status without conditional basis, any alien
10 who—

11 (i) demonstrates eligibility for lawful
12 permanent residence status on a condi-
13 tional basis under section 102(b); and

14 (ii) subject to the exceptions described
15 in subsections (a)(2) and (a)(3)(B) of this
16 section, already has fulfilled the require-
17 ments of paragraphs (1) and (3) of sub-
18 section (a) of this section at the time such
19 alien first submits an application for bene-
20 fits under this title.

21 (B) BACKGROUND CHECKS.—Subsection
22 (a)(5) shall apply to an alien seeking lawful
23 permanent resident status without conditional
24 basis in an initial application in the same man-
25 ner as it applies to an alien seeking removal of

1 the conditional basis of an alien's permanent
2 resident status. Section 102(b)(4) shall not be
3 construed to require the Secretary to conduct
4 more than one identical security or law enforce-
5 ment background check on such an alien.

6 (C) APPLICATION FEES.—In the case of an
7 alien seeking lawful permanent resident status
8 without conditional basis in an initial applica-
9 tion, the alien shall pay the fee required under
10 subsection (a)(4), subject to the exemption al-
11 lowed under section 303(c), but shall not be re-
12 quired to pay the application fee under section
13 102(b)(3).

14 **SEC. _____. RESTORATION OF STATE OPTION TO DETER-**
15 **MINE RESIDENCY FOR PURPOSES OF HIGHER**
16 **EDUCATION BENEFITS.**

17 (a) IN GENERAL.—Section 505 of the Illegal Immi-
18 gration Reform and Immigrant Responsibility Act of 1996
19 (8 U.S.C. 1623) is repealed.

20 (b) EFFECTIVE DATE.—The repeal under subsection
21 (a) shall take effect as if included in the original enact-
22 ment of the Illegal Immigration Reform and Immigrant
23 Responsibility Act of 1996 (division C of Public Law 104–
24 208; 110 Stat. 3009–546).

