Legislative Analysis: H.R. 4796-USA Act of 2018

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**Summary**

The Uniting and Securing America (USA) Act 2018 is a bill that gives a solution to all the young undocumented population that entered the United States as kids and they have been here for most of their lives. This bill gives Dreamers an opportunity to stay in the United States and eliminate the uncertainty they have faced under the threat of deportation. The term dreamers started after the introduction of the first version of the DREAM act in 2001.[[1]](#footnote-0) Dreamers are undocumented minors that entered the United States when they were young and the country that they know is the United States. They are called dreamers because even if this bill didn’t pass they dream of a better future where they can be protected by the United States especially from deportation and that they can reach personal fulfillment through an affordable education and they dream to have the same opportunities as any other American citizen. DACA recipients are considered dreamers. The USA Act of 2018 provides a relief for dreamers if they fulfill certain requirements. They are given this chance if they are seeking higher education, completed military service or have a good job. By showing that they are productive, this way they are earning an opportunity to stay in the United States. At the same time, this bill will guarantee a stronger border security through the use of better technology to enforce immigration laws. By increasing the number of immigration lawyers, the wait in cases will be less and the legal system will be more efficient. The specific institutions or groups that USA Act of 2018 is addressing are Dreamers, Border Security, Immigration Courts and the safety of the “ Northern Triangle”[[2]](#footnote-1) countries that are El Salvador, Guatemala, and Honduras.

USA Act of 2018 was introduced in the House on January 16, 2018. It was referred to the Committee on the Judiciary, Homeland Security, Education and the Workforce, Energy and Commerce and Foreign Affairs for a period of time depending on the concerns of each committee. On January 24, 2018, it was referred to the Subcommittee on Immigration and Border Security. On January 26, 2018 the bill was referred to the Subcommittee on Border and Maritime Security. The bill is actually introduced to the House, but no votes have been collected.[[3]](#footnote-2)

The USA Act 2018 is relatively new, but it has other bills that are related to it that contributes to the complexity and continuity of this bill. USA Act of 2018 is a continuation of the bills H.R. 3434- Dream Act of 2017 and S.1615- Dream Act of 2017. The bill H.R. 3479- Secure Miles with All Resources and Technology Act is implemented in the USA Act of 2018. All of this bills are related to the USA Act of 2018 because this bill is intended to protect Dreamers and to give them the opportunity to apply for a permanent status. The Dream Act bills are H.R. 3440 (Dream Act 2017) and S. 1615 (Dream Act of 2017),[[4]](#footnote-3) they are both looking for the same objectives, but one was introduced by the house of representatives and the other one by the Senate.

The Dream Act of 2017[[5]](#footnote-4) bill demands that the Department of Homeland Security (DHS) give permanent resident status conditionally to individuals that are in danger of being deported. The qualifications to apply for the Dream Act of 2017 are:

* The applicant has been in the United States for 4 years previous of this bill being enacted
* The applicant must be younger than 18 years old when they entered the United States
* The applicant is not involved in criminal activity.

The Dream Act of 2017 establishes the documentation required in order to be eligible for Deferred Action for Childhood Arrivals (DACA). DACA is a program that provides undocumented youth the security that they won’t be deported and also provides a work permit. DACA recipients have to renew their applications every two years. This bill also rejects the idea of denying education benefits based on the legal status of the applicants.

The documentation necessary to be eligible under the DACA program are:

* The applicant was younger than 31 years old before June 15, 2012.
* The applicant entered the United States before turning 16 years old.
* The applicant lived in the United States from June 15, 2012 until the present day.
* The applicant need to give proof that they have an education background. For example: Provide a GED, high school diploma, served in the military or Coast Guard in the past.
* The applicant must have no felonies or more than three misdemeanors.[[6]](#footnote-5)

The USA Act of 2018 also explicitly incorporates H.R. 2479, the Secure Miles with All Resources and Technology Act.[[7]](#footnote-6) This bill is implemented in the USA Act 2018 by Rep. Will Hurd as the second most important part of the bill to guarantee the security across the border. The SMART Act directs the Department of Homeland Security (DHS) to implement the best technology to have better control across the border and to provide a border strategy to Congress. The DHS has to create a program to improve communication in the border for people that live or work in the border area and that have bad phone service.

 The additional or supplementary bill of H.R. 4796 USA Act of 2018 is the bill S.2367 USA Act of 2018[[8]](#footnote-7) and is primarily looking for the same objectives as the H.R. 4796. This bill was introduced by the Democratic Senator Christopher Coons and is also looking to protect the conditional status that DACA provides unless the person engages in criminal behaviors.

**H.R. 4796-115th Congress: USA Act 2018**

Will Hurd (R-Texas) and Pete Aguilar (D- California) were the primary sponsors for the Uniting and Securing America Act on January 16, 2018, with 59 cosponsors (30 Democratic, 29 Republican).[[9]](#footnote-8) This bill was introduced because it will provide Dreamers that lived in the United States for four years, the chance to pursue a legal status if they continue their education, are in the military or have a very good job. This bill will also help border security to maximize their technology and other strategies to enforce the law across the border.

USA Act 2018 will establish a conditional permanent resident status that will protect dreamers from being deported back to their country of origin, allow them to work and also gives them the opportunity to apply for citizenship. In order to apply, Dreamers would have to give certainty that they came to the United States before turning 18 and that they have lived in the US since 2013. The applicants would pass background checks, they shouldn’t have any felony or many misdemeanors and applicants will have to enroll in Selective Service. They will be qualifying if they meet one of these requirements: they have been accepted to college, have a high school degree or be registered in high school, have served in the military and also pay for the application.

USA Act 2018 will guarantee permanent resident status conditionally to DACA beneficiaries that can continue meeting the requirements needed to obtain DACA in the first place. Later on, the people with the conditional status can apply to have a permanent residence and stay in the United States if they have the following qualifications:

* Reside in the United States frequently and pass the background checks .
* The applicant has to be graduated from college or be in track of getting their degree (at least 2 years).
* If the applicant has done military service in the United States or if the person has been employed for at least three years.
* They also have to know how to read, write and speak English and have an understanding of the history and pay a fee for the application.

USA Act of 2018 will include “Secure Miles with All Resources and Technology”[[10]](#footnote-9) of Rep. Hurd (R-Texas) that will make the Security in the border more rigorous through several regulations:

* Technology at the Border: This bill will dictate the Department of Homeland Security (DHS) to use the best technology like sensors, unmanned cameras, and any other devices that guarantee security across the border and to gain control by January 20, 2021.
* Infrastructure and equipment: This bill will give permission to the DHS secretary to build new ports across the borders in the North and South. USA Act 2018 will permit the expansion of relevant ports in the border of the South to promote safety and secure trade.
1. “Comprehensive Border Strategy”: This bill will delegate the DHS to submit a list in one year of a border strategy including factors like the best technology and also provide the cost of these artifacts.
2. “Eradicate Carrizo Cane and Salt Cedar Along Rio Grande”: In this regulation, the goal is to destroy all the plants that are invasive so the Border Patrol can have a better view in the area.
3. “Operation Stone Garden”: In this section, the bill seeks to grant $110 million for each fiscal year from 2018 to 2022 in order to promote cooperation between U.S. Customs and Border Protection and State law institutions to collaborate security operations and help Central America. This bill will promote aid from the United States to improve the economic and safety conditions in El Salvador, Guatemala and Honduras.

“Reducing significant delays in Immigration Court”: The bill will also focus on the number of immigration judges. The number will increase by 55 every year from 2018 to 2020 to reduce the slow immigration process. The number of Board of Immigration Appeals staff attorneys will increase by 23 each fiscal year from 2018 to 2020.

**Analysis:**

The USA Act 2018 as I said before is a continuity of the DREAM act of 2017. The DREAM act of 2017 is the most recent attempt to help dreamers achieve a legal status in the United States. The original DREAM ( Development, Relief, and Education for Alien Minors) act or S.1291 was introduced in 2001 by Sen. Orrin G. Hatch,[[11]](#footnote-10) but failed to pass Congress. Since 2001, 21 versions of the DREAM act [[12]](#footnote-11) have been introduced with the hope of protecting the youth, but none of these bills has become a law. The intention of the DREAM act is to provide a path for citizenship through education, work or military services.[[13]](#footnote-12)

 More than a decade after in 2012, Barack Obama, the president of the United States used his executive power to provide a program that would protect dreamers from deportation given the lack of action from the Congress to provide a solution for them and the rejection of the DREAM act. He proposed that the Department of Homeland Security would introduce a temporary program called Deferred Action for Childhood Arrivals (DACA) and provided a temporary relief for young immigrants that don’t represent a threat for the national security.[[14]](#footnote-13) The problem is that DACA is a program that doesn’t provide any type of path to citizenship and the beneficiaries had to renew it every two years. Additionally, DACA wasn’t approved as a law by Congress so it was a temporary solution.When Barack Obama was president renewing DACA didn’t seem to be a problem, but when his term ended then issues regarding DACA started to rise.

Republican president Donald Trump was elected and he is against the DACA program and during his presidential campaign one of his focal points regarding immigration was to end the program.[[15]](#footnote-14) As promised, in September of 2017 Trump’s administration decides to revoke the DACA program and attempted to reject any applications after September 5, 2017. After this devastating announcement, many dreamers were left unprotected and at the brink of deportation. In January, Donald Trump met with a group of bipartisan lawmakers to discuss what legislative solution could they provide to dreamers and prevent a government shutdown. After this meeting, federal judge William Alsup in the US.S District Court in San Francisco temporarily blocked Trump’s decision regarding DACA through the Ninth Circuit and ordered to keep DACA the way it was.[[16]](#footnote-15) William Alsup appealed that until a final judgement could be reached, the program should continue and people should be able to renew their permits, but that new applications would not be taken. Alsup granted a request by California and other states through the United States Court of Appeals for the Ninth Circuit. The Ninth Circuit is the largest court out of the 13 federal appellate courts in the United States.[[17]](#footnote-16) Appellate courts are below the Supreme courts and they have the authority to appeal decisions of other federal agencies.[[18]](#footnote-17) In this case, Judge Alsup exercised his right to appeal against a decision that according to him wasn’t the right one.

The decision of eradicating DACA back in September 2017 was encouraged by Attorney General Jeff Sessions and other Republican attorneys because Jeff Sessions said that DACA was established after Congress rejected the Dream Act and that DACA started through an executive order by President Obama and that it could be revoked[[19]](#footnote-18). Jeff Sessions believed that Barack Obama had abused his legal power when creating DACA and that what Obama did was unconstitutional. Judge Alsup said that this accusation was incorrect because the president was using his executive power, Alsup appealed that because the decision was based on a flawed opinion therefore the decision of terminating DACA should be blocked.[[20]](#footnote-19) The U.S Justice Department say that they will appeal to this decision and will ask the Supreme Court to review this decision.

Under Donald Trump’s administration, there is a constant back and forth in the topic of immigration. He can’t do everything he want because of the principle of checks and balances in the United States system. The three United States branches check and balance each other to prevent any supremacy of one branch over the other and that they can share power equally. In this case, there is a problem basically involving the executive branch and the judicial branch. Barack Obama used his authority as president and ordered an executive order to create DACA. Donald Trump tried to eliminate DACA by issuing another executive order that has the authority of overturning Obama’s order because it never became a law. Congress and Federal Courts can eliminate executive orders that exceed the president’s authority.

**How does the USA act of 2018 fits DACA and the history behind it ?**

With the uncertainty that still live among Dreamers, the USA act of 2018 is one bill that provides a path for citizenship to dreamers and at the same time more funds to improve border security. This bill will also protect people that are not currently protected by DACA, but that are dreamers and have been in the country for four years at least. This will give new opportunities to to other immigrants that didn’t reach the deadline of coming to the United States before 2012. This bill is taking one step further than DACA because if this bill pass, the beneficiaries wouldn’t be protected by an executive order that could be overturned by another president and is guiding the applicants through a process that takes time, but that eventually they will become permanent citizens of the United States. If this bill is approved by Congress it would be a big success that had its roots back in 2001 when the first version of the DREAM act was introduced with the same goal of providing a permanent relief to dreamers and to DACA recipients as well.

 I think that despite the USA act 2018 being a bipartisan effort to bring relief to all dreamers, attack the roots of immigration in Central America and also strengthen the South Border, it will not become a law. I believe that even if this bill includes border regulations, Republicans wouldn’t support it because it is also providing permanent citizenship to the beneficiaries in the long-run. Especially because the majority in Congress are Republicans and Donald Trump is very conservative about immigration.On the bright side, if this bill pass it would be powerful, not only personally for every dreamer, but also legally. They will be protected by a law and not something so temporary like DACA that can be revoked with another executive order. In summary, the executive power can be overturned easily when another president start their administration if they don’t agree with it. If this bill pass Congress, even if the president decides to veto this bill, the decision could still be overturned by Congress if there is a two-third vote in each chamber.

In my opinion, Barack Obama didn’t abuse any legal power when creating DACA because like Judge Alsup said, Obama was using his executive power. In any case, if DACA was a result of a power abuse because it was created by an executive order then Trump’s executive order to revoke DACA should be an abuse of power as well. Obama emitted that executive order due to Congress inaction on the dreamers issue.

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