

ISSUE BRIEF

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The DREAM Act in the NDAA: Wrong for National and Homeland Security

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Under current law, lawful permanent residents (LPRs) are eligible to volunteer to serve in the United States military. If they pass the strict qualification requirements applicable to all who seek to serve, they can serve in the armed forces of the United States, and once they are in the armed forces, they may apply for expedited consideration for U.S. citizenship, which is granted on a routine basis.

Now, however, some in Congress are looking to provide a backdoor to instant citizenship for unlawful immigrants who are brought to the U.S. as minors—also known as “DREAMers,” after the Development, Relief, and Education for Alien Minors (DREAM) Act—in the upcoming National Defense Authorization Act (NDAA). Contrary to the claims of supporters, these bills would not advance U.S. national security and would only harm the U.S. immigration system.

Backdoor Citizenship. Representative Mike Coffman’s (R-CO) Military Enlistment Opportunity Act (H.R. 435) and Representative Jeff Denham’s (R-CA) ENLIST Act (H.R. 2377) would allow DREAMers to acquire legal permanent residence in exchange for military service. Then, because of existing law, once those DREAMERS were given LPR status, they

could apply for citizenship on an expedited basis and would become citizens within months.

While House Armed Service Committee Chairman Buck McKeon (R-CA) wisely announced that he would not include such DREAM policies in the committee’s reported bill, these bills could be offered on the floor as amendments to the NDAA or other bills.

The sponsors claim that their bills would enhance national security by expanding the pool of those who are eligible for military service and provide unlawful immigrants with the opportunity to become LPRs and eventually citizens. Both of these arguments, however, ignore the costs of this policy and overstate its benefits.

Bills Would Not Demonstrably Promote National Security. Coffman argues that his H.R. 435 improves national security by increasing the pool of applicants for military service. While this is true on its face, it vastly overstates the case. The 2010 Census found that there were 30.7 million 18-to-24-year-olds in the U.S.¹ On the other hand, the Department of Homeland Security (DHS) estimates that the number of 18-to-24-year-old unlawful immigrants is around 1.3 million.² Even if this figure is adjusted higher to combat undercounting, and even if all 18-to-24-year-old unlawful immigrants are assumed to be DREAMers, both bills would increase the total pool of young adults by no more than 5 percent. Furthermore, the military has almost completely met or exceeded its recruiting goals for at least the past two fiscal years.³

Allowing unlawful immigrants to serve in the military also creates several concerns. They would be required to take an oath to “support and defend

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the Constitution of the United States” even though they are still technically citizens of other countries. And although there have been non-citizens who have served honorably in the U.S. armed forces in the past, the nation is engaged in a unique type of war today against a non-state actor that cannot be easily identified. Additionally, since very little may be known about these individuals, the risk of recruiting dangerous individuals increases. This risk is amplified by the fact that the promise of backdoor instant citizenship may draw individuals who do not actually believe in the mission of the U.S. military.

These bills pay little attention to how the U.S. would certify the eligibility of these individuals, leaving the process open to widespread fraud and abuse. For example, H.R. 435 requires that the unlawful immigrant possess a waiver from DHS’s Deferred Action for Childhood Arrivals (DACA) policy of temporary amnesty that President Obama instituted through executive fiat. This program, however, has not met its already modest requirements. Specifically, DACA recipients are supposed to pass a background check, but after just a couple of months, DHS began conducting “lean and lite” background checks, urging employees to accept all DACA recipients, explicitly waiving rules regarding proof of identity, and even stopping background checks altogether.⁴ H.R. 2377 is even less specific about how these individuals would be examined.

If the Obama Administration will not enforce its own rules for DACA recipients, policymakers should be wary about trusting it to administer the extension of this program to the U.S. military.

Bills Harm Homeland Security and Immigration System. DREAM policies are also flawed because they ignore the effects on homeland security and American society. Both bills place a greater strain on homeland security efforts for which current U.S. citizens are paying and on which they rely. They incentivize future illegal immigration by rewarding it. They encourage one of the most dangerous forms of illegal immigration—that of children. Gil Kerlikowske, the head of Customs and Border Protection, recently testified before Congress that the number of unaccompanied minors crossing the border has increased from 6,000 in fiscal year (FY) 2011 to 60,000 in FY 2014. He went on:

While I recognize and am sympathetic to the humanitarian obligations we give these young victims, we cannot ignore that policies [such as DACA and family reunification] are creating a gravitational pull so strong that parents are willing to support vile criminal networks, and to place their precious children in harm’s way—outcomes this subcommittee cannot accept.⁵

Ignoring the Root of the Problem. Ultimately, both H.R. 435 and H.R. 2377 are flawed because they ignore the central problems of illegal immigration while trying to deal with the effects. Rather than focusing on backdoor instant citizenship as a solution to its immigration woes, the U.S. should look to common-sense, step-by-step reforms that encourage lawful immigration and discourage unlawful immigration. Congress and the Administration should:

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1. Lindsay M. Howden and Julie A Meyer, “Age and Sex Composition: 2010 Census Briefs,” U.S. Department of Commerce, Economics and Statistics Administration, May 2011, <http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf> (accessed April 7, 2014).
 2. Michael Hoefer, Nancy Rytina, and Bryan C. Baker, “Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2010,” U.S. Department of Homeland Security, Office of Immigration Statistics, February 2011, http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2010.pdf (accessed April 7, 2014).
 3. Press release, “DOD Announces Recruiting and Retention Numbers for Fiscal Year 2013, Through November 2012,” U.S. Department of Defense, January 10, 2013, <http://www.defense.gov/Releases/Release.aspx?ReleaseID=15773> (accessed April 7, 2014), and press release, “DOD Announces Recruiting and Retention Numbers for Fiscal Year 2014, Through October 2013,” U.S. Department of Defense, December 16, 2013, <http://www.defense.gov/releases/release.aspx?releaseid=16429> (accessed April 7, 2014).
 4. Press release, “Documents Reveal DHS Abandoned Illegal Alien Background Checks to Meet Amnesty Requests Following Obama’s DACA,” Judicial Watch, June 11, 2013, <http://www.judicialwatch.org/press-room/press-releases/homeland-security-documents-reveal-dhs-abandoned-required-illegal-alien-background-checks-to-meet-flood-of-amnesty-requests-following-obamas-deferred-action-for-childhood-arrivals-directive/> (accessed April 7, 2014).
 5. Caroline May, “Customs and Border Protection Head: Obama Policies Partially to Blame for Rise of Children Illegally Crossing the Border,” *The Daily Caller*, April 3, 2014, <http://dailycaller.com/2014/04/03/customs-and-border-protection-head-obama-policies-partially-to-blame-for-rise-of-children-illegally-crossing-the-border/> (accessed April 7, 2014).

- **Reject DREAM policies.** While Americans are sympathetic to the plight of the DREAMers, any immigration reform that starts with amnesty further harms the rule of law and the U.S. immigration system. Solutions for DREAMers should be considered only after Congress and the Administration have a proven track record of stopping illegal immigration.
- **Enforce the law.** President Obama should reverse his ongoing and consistent abuse of executive authority to contradict and ignore large parts of immigration law. Congress should use all means at its disposal to pressure the Administration to faithfully enforce U.S. immigration law.

Fix What Is Broken. The U.S. immigration system is often called broken, but backdoor instant citizenship (a form of amnesty) policies like H.R. 435 and H.R. 2377 ignore the central problems with the U.S. immigration system—namely, that the U.S. faces large-scale illegal immigration and, by ignoring large parts of immigration law, is not only failing to stop the problem but actually making it worse.

H.R. 435 and H.R. 2377 would provide near-instant citizenship to those unlawful immigrants who were brought here as children that enlist in a military service. While military service is a noble calling, allowing unlawful immigrants to join the military in exchange for citizenship is a radical and perverse incentive that would encourage more illegal immigration of children. Furthermore, such policies do not meaningfully add to the security of the U.S. but do add to security concerns. Instead, the U.S. would benefit immensely from faithful enforcement of immigration law as a first step in tackling illegal immigration.

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