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## PRACTICE AREAS

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H-1B

H-1B Transfers

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Within U.S.

Naturalization / Citizenship

### AMNESTY

## DREAM Act Can Help Alleviate the Woes of Some Undocumented Aliens

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Article provided by The Shapiro Law Group

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### US Immigration Policies Need Reform

The US immigration system is in desperate need of a major overhaul. For those seeking permanent residence in the United States, the wait for their legal immigrant visa can be very long depending on the type of immigrant visa that they qualify for. Family members and employers can be forced to wait anywhere from six to 20 years before their sponsored immigrant is assigned a visa number and allowed to enter the country.

One of the most contentious areas of debate in immigration concerns how to treat those who currently live in the US illegally. Some wish to see these people forcibly deported from the country. Others believe they should be allowed to stay here and granted amnesty. But for many, the issue isn't as simple as either letting them stay or forcing them to go and politicians have been unable to make any headway towards solving this problem for decades.

### Undocumented Children Left to Fend for Themselves after Graduation

One of the areas that highlight the problems with the US immigration system is what to do with individuals who entered the country illegally as children, who have attained the age of 18 and are now adults. Federal law has always taken a stance that children shall not be punished for the wrongs of their parents. This policy has made it possible for undocumented children to attend public schools in the US. But what happens once these children grow up and become adults?

The only way for children to gain legal status in the US is through their parents. But when their parents have entered the country illegally, there is no viable option for their children to ever become legal residents. The



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only way they could ever gain legal status is if they left the country for at least ten years and then became eligible for a visa. But even this is not a practical solution unless they have other close family members living legally in the United States or qualify for an employment-based visa.

For the majority of these children, the United States is the only home they ever have known. It is estimated that as many as 65,000 illegal immigrant students graduate each year from US high schools. But upon graduation, they soon discover that the law is no longer forgiving of their status and as adults they have become just another illegal immigrant. As undocumented aliens, they will not be eligible to be legally employed by US employers in the United States and they will not qualify for federal student aid, grants or other types of loans. Unless they are able to independently pay for any further education, they are left with limited options for their future.

#### The 2009 DREAM Act

The Development, Relief and Education for Alien Minors Act (DREAM Act) is one of the proposals that has been made in Congress to deal with the treatment of undocumented children once they reach adulthood. Under the Act, qualified illegal immigrant students would be able to receive conditional permanent residence for six years. At the end of the six year period, the students would be eligible for full permanent resident status if they did one of the following:

\*Completed a two-year community college program

\*Completed at least two years towards a four year bachelor's program

\*Served at least two years in a branch of the US military

Students with conditional status who did not meet the educational or military service requirements during the six year period would lose their status and be subject to immediate deportation.

In order to be eligible for participation in the DREAM Act program, illegal immigrant students would have to meet the following requirements:

\*Provide proof that they entered the country before they were 16-years-old

\*Provide evidence that they have lived continuously in the US for five years since entering the country

\*Provide proof that they have graduated from a US high school or received a



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#### GED

\*Be between the ages of 12 and 35 at the time the DREAM Act was signed into law

To be eligible, illegal immigrant students also must possess good moral character. Being charged with any drug crime automatically makes a student ineligible and qualifies them for immediate deportation. Convictions for other non-misdemeanor offenses also show a lack of good moral character and disqualify an otherwise eligible student. Likewise, students who have been granted conditional residency will lose their status if they are convicted of a drug-related offense or other crime.

Illegal immigrant students who met the requirements for the DREAM Act and are granted the six year conditional status also would be eligible to receive federal student loans to help finance their education. However, they would not be eligible for federal Pell Grants.

#### Conclusion

Variations of the DREAM Act have been introduced and subsequently defeated in Congress since 2001. President Obama has expressed support for the bill so there is hope that the Act will become law during his term. However, with the President's and Congress' current agenda focused on health care reform, it is unlikely that there will be any major changes to US immigration policy until 2010.