



House bill opens citizenship to adult children of H-1B holders

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March 9, 2021

A new House bill offers hope to adult children of Indian and other foreigners on H-1B, L-1 and other work visas who lose their status to live legally in the US at age 21,

Introduced on March 3 by House Democrats, the American Dream and Promise Act (HR 6) primarily focuses on providing a path to citizenship for immigrants brought to the country as children.

But unlike the Dream Act in the Senate and last Congress's version of HR 6, it extends the path to citizenship to "legal dreamers," foreign-born children of temporary workers.

The change "will have major implications not only for the kids, but for their parents and the entire employment-based system if this bill becomes law," according to David J. Bier, immigration policy analyst at the Cato Institute, a Washington think tank.

Previously, HR 6 had only allowed someone who was "inadmissible or deportable" to qualify unless they were in Temporary Protected Status (TPS), a temporary status mostly for immigrants without any other legal status, he noted in a blog post.

But the new American Dream and Promise Act greatly reduces this unfair discrimination against legal residents.

"The new language will allow anyone who 'is the son or daughter of an alien admitted as a nonimmigrant' under the E-1, E-2, H-1B, and L-1 temporary work visa programs," Bier says.

In recent years, Indian tech professionals have been getting more than two thirds of the 85,000 H-1B visas issued annually for skilled employees of US businesses working in specialty occupations.

"Their children are eligible to come with them and grow up in the United States in H-4 dependent status. Their employers can sponsor them for green cards," Bier noted.

On their 21st birthday, however, they lose H-4 status and their place in the green card line and they have to self-deport or find another status such as a student visa.

The L-1 program for skilled intracompany transfers by multinational companies also allows them to bring their minor children.

Noting that L-1 and H-1B visa holders awaiting green cards are mainly from India, Bier estimates that about 100,000 children currently in line will age out and lose their chance to become citizens through their parent's employer's petition.

Overall, there are more than 255,000 dependents awaiting employment-based green cards, he says.

Legal dreamers would still have to meet other requirements like first coming to the US under the age of 18 and continuous presence in the country since Jan. 1, 2021.

They must have also graduated from a US high school or be enrolled in a US high school or college, and have not committed certain crimes.

While legal dreamers often travel internationally, the bill allows for breaks of up to 90 days and 180 days cumulatively.

It also excludes any travel authorized by the Department of Homeland Security (DHS)—“which, if the government adopts a reasonable interpretation, should include all travel under H-4 or other lawful status provided by DHS,” Bier says.

Those who have already aged out and were forced to leave the country would also be allowed to apply for a green card from abroad if they departed the country on or after Jan. 20, 2017 if they had been physically present for at least four years.

“According to the plain text, the applicant's parent does not need to currently be in H-1B, L-1, or E statuses,” he says.

Many legal dreamers' parents have left the US or received their green cards after the child aged out. The text only states that the applicants must currently be the son or daughter of someone “admitted” under those classifications, but the language doesn't say either “who is” or “who was” admitted, Bier says.

“Since it doesn't specify, it should include both groups (that is, anyone ever admitted under those classifications) since, in order to exclude one or the other, the language would need to explicitly state so.”

While it should include the vast majority of dreamers, the bill does leave out some legal dreamers, Bier notes.

These include children of workers under other temporary statuses, such as Os for those with extraordinary ability, Fs for student workers and graduates of US universities working under Curricular Practical Training and Optional Practical Training programs, Ps for professional athletes, Js for various classifications of exchange program workers, Rs for religious workers.

“Nonetheless, the American Dream and Promise Act has greatly improved from last Congress by including the large majority of legal dreamers in the United States,” Bier says.

“By allowing them to obtain US citizenship, they will eventually be able to sponsor their parents for green cards outside of the hopelessly backlogged employment-based system.”

“Freeing both the parents and kids from the needlessly bureaucratic and controlled temporary statuses would hold great economic benefits for this country,” Bier says.

