



## MEMORANDUM

**TO:** ASI Board of Directors

**FROM:** Daniela Czerny  
ASI Executive Cabinet,  
Secretary of Legislative Affairs

**DATE:** February 16, 2017

**COPIES:** M. Maloney  
L. Lee

**SUBJECT:** Endorsement #17-03: Senate Bill 3542 (Graham) – BRIDGE Act

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**Purpose of the proposed Endorsement:** The purpose of this Endorsement is to show ASI Board of Directors support of “SB 3542 – BRIDGE (Bar Removal of Individuals who Dream and Grow our Economy) Act”

**Background:** Senate Bill 3542 would provide temporary relief from deportation and employment authorization to individuals who are eligible for the Department of Homeland Security’s Deferred Action for Childhood Arrivals (DACA) program. Young students and veterans who grew up in the United States of America would receive temporary protection from removal and work authorization if they register with the government, pay a fee, and pass a criminal background check. More than 752,000 young people have received DACA. The BRIDGE Act would ensure that these people can continue to pursue their studies and work.

**Requested Action:** I therefore request that the ASI Board of Directors endorse S.B 3542 – BRIDGE Act.

114TH CONGRESS  
2D SESSION

# S. 3542

To provide provisional protected presence to qualified individuals who came to the United States as children.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2016

Mr. GRAHAM (for himself, Mr. DURBIN, Ms. MURKOWSKI, Mrs. FEINSTEIN, Mr. FLAKE, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide provisional protected presence to qualified individuals who came to the United States as children.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bar Removal of Indi-  
5 viduals who Dream and Grow our Economy Act” or the  
6 “BRIDGE Act”.

1 **SEC. 2. PROVISIONAL PROTECTED PRESENCE FOR YOUNG**  
2 **INDIVIDUALS.**

3 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
4 gration and Nationality Act (8 U.S.C. 1221 et seq.) is  
5 amended by adding at the end the following:

6 **“SEC. 244A. PROVISIONAL PROTECTED PRESENCE.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) DACA RECIPIENT.—The term ‘DACA re-  
9 cipient’ means an alien who is in deferred action sta-  
10 tus on the date of the enactment of this section pur-  
11 suant to the Deferred Action for Childhood Arrivals  
12 (‘DACA’) Program announced on June 15, 2012.

13 “(2) FELONY.—The term ‘felony’ means a Fed-  
14 eral, State, or local criminal offense punishable by  
15 imprisonment for a term exceeding one year.

16 “(3) MISDEMEANOR.—The term ‘misdemeanor’  
17 means a Federal, State, or local criminal offense  
18 (excluding a significant misdemeanor) for which—

19 “(A) the maximum term of imprisonment  
20 is greater than five days and not greater than  
21 one year; and

22 “(B) the individual was sentenced to time  
23 in custody of 90 days or less.

24 “(4) SECRETARY.—The term ‘Secretary’ means  
25 the Secretary of Homeland Security.

1           “(5) SIGNIFICANT MISDEMEANOR.—The term  
2           ‘significant misdemeanor’ means a Federal, State, or  
3           local criminal offense for which the maximum term  
4           of imprisonment is greater than five days and not  
5           greater than one year that—

6                   “(A) regardless of the sentence imposed, is  
7                   an offense of domestic violence, sexual abuse or  
8                   exploitation, burglary, unlawful possession or  
9                   use of a firearm, drug distribution or traf-  
10                  ficking, or driving under the influence if the  
11                  State law requires, as an element of the offense,  
12                  a finding of impairment or a blood alcohol con-  
13                  tent of .08 or higher; or

14                  “(B) resulted in a sentence of time in cus-  
15                  tody of more than 90 days, excluding an offense  
16                  for which the sentence was suspended.

17           “(6) THREAT TO NATIONAL SECURITY.—An  
18           alien is a ‘threat to national security’ if the alien  
19           is—

20                   “(A) inadmissible under section 212(a)(3);

21                   or

22                   “(B) deportable under section 237(a)(4).

23           “(7) THREAT TO PUBLIC SAFETY.—An alien is  
24           a ‘threat to public safety’ if the alien—

1           “(A) has been convicted of an offense for  
2           which an element was participation in a crimi-  
3           nal street gang (as defined in section 521(a) of  
4           title 18, United States Code); or

5           “(B) has engaged in a continuing criminal  
6           enterprise (as defined in section 408(c) of the  
7           Comprehensive Drug Abuse Prevention and  
8           Control Act of 1970 (21 U.S.C. 848(c))).

9           “(b) AUTHORIZATION.—The Secretary—

10           “(1) shall grant provisional protected presence  
11           to an alien who files an application demonstrating  
12           that he or she meets the eligibility criteria under  
13           subsection (c) and pays the appropriate application  
14           fee;

15           “(2) may not remove such alien from the  
16           United States during the period in which such provi-  
17           sional protected presence is in effect unless such sta-  
18           tus is rescinded pursuant to subsection (g); and

19           “(3) shall provide such alien with employment  
20           authorization.

21           “(c) ELIGIBILITY CRITERIA.—An alien is eligible for  
22           provisional protected presence under this section and em-  
23           ployment authorization if the alien—

24           “(1) was born after June 15, 1981;

1           “(2) entered the United States before attaining  
2           16 years of age;

3           “(3) continuously resided in the United States  
4           between June 15, 2007, and the date on which the  
5           alien files an application under this section;

6           “(4) was physically present in the United  
7           States on June 15, 2012, and on the date on which  
8           the alien files an application under this section;

9           “(5) was unlawfully present in the United  
10          States on June 15, 2012;

11          “(6) on the date on which the alien files an ap-  
12          plication for provisional protected presence—

13                 “(A) is enrolled in school or in an edu-  
14                 cation program assisting students in obtaining  
15                 a regular high school diploma or its recognized  
16                 equivalent under State law, or in passing a gen-  
17                 eral educational development exam or other  
18                 State-authorized exam;

19                 “(B) has graduated or obtained a certifi-  
20                 cate of completion from high school;

21                 “(C) has obtained a general educational  
22                 development certificate; or

23                 “(D) is an honorably discharged veteran of  
24                 the Coast Guard or Armed Forces of the  
25                 United States;

1           “(7) has not been convicted of—

2                   “(A) a felony;

3                   “(B) a significant misdemeanor; or

4                   “(C) three or more misdemeanors not oc-  
5           curring on the same date and not arising out of  
6           the same act, omission, or scheme of mis-  
7           conduct; and

8           “(8) does not otherwise pose a threat to na-  
9           tional security or a threat to public safety.

10          “(d) DURATION OF PROVISIONAL PROTECTED PRES-  
11   ENCE AND EMPLOYMENT AUTHORIZATION.—Provisional  
12   protected presence and the employment authorization pro-  
13   vided under this section shall be effective until the date  
14   that is three years after the date of the enactment of this  
15   section.

16          “(e) STATUS DURING PERIOD OF PROVISIONAL PRO-  
17   TECTED PRESENCE.—

18               “(1) IN GENERAL.—An alien granted provi-  
19   sional protected presence is not considered to be un-  
20   lawfully present in the United States during the pe-  
21   riod beginning on the date such status is granted  
22   and ending on the date described in subsection (d).

23               “(2) STATUS OUTSIDE PERIOD.—The granting  
24   of provisional protected presence under this section

1 does not excuse previous or subsequent periods of  
2 unlawful presence.

3 “(f) APPLICATION.—

4 “(1) AGE REQUIREMENT.—

5 “(A) IN GENERAL.—An alien who has  
6 never been in removal proceedings, or whose  
7 proceedings have been terminated before mak-  
8 ing a request for provisional protected presence,  
9 shall be at least 15 years old on the date on  
10 which the alien submits an application under  
11 this section.

12 “(B) EXCEPTION.—The age requirement  
13 set forth in subparagraph (A) shall not apply to  
14 an alien who, on the date on which the alien ap-  
15 plies for provisional protected status, is in re-  
16 moval proceedings, has a final removal order, or  
17 has a voluntary departure order, and who is not  
18 in immigration detention.

19 “(2) APPLICATION FEE.—

20 “(A) IN GENERAL.—The Secretary may re-  
21 quire aliens applying for provisional protected  
22 presence under this section to pay a reasonable  
23 fee that is commensurate with the cost of proc-  
24 essing the application.

1           “(B) EXEMPTION.—An applicant may be  
2 exempted from paying the fee required under  
3 subparagraph (A) if the alien—

4           “(i)(I) is younger than 18 years of  
5 age;

6           “(II) received total income during the  
7 12-month period immediately preceding the  
8 date on which the alien files an application  
9 under this section that is less than 150  
10 percent of the United States poverty level;  
11 and

12           “(III) is in foster care or otherwise  
13 lacking any parental or other familial sup-  
14 port;

15           “(ii) is younger than 18 years of age  
16 and is homeless;

17           “(iii)(I) cannot care for himself or  
18 herself because of a serious, chronic dis-  
19 ability; and

20           “(II) received total income during the  
21 12-month period immediately preceding the  
22 date on which the alien files an application  
23 under this section that is less than 150  
24 percent of the United States poverty level;  
25 or

1           “(iv)(I) as of the date on which the  
2           alien files an application under this sec-  
3           tion, has accumulated \$10,000 or more in  
4           debt in the past 12 months as a result of  
5           unreimbursed medical expenses incurred by  
6           the alien or an immediate family member  
7           of the alien; and

8           “(II) received total income during the  
9           12-month period immediately preceding the  
10          date on which the alien files an application  
11          under this section that is less than 150  
12          percent of the United States poverty level.

13          “(3) REMOVAL STAYED WHILE APPLICATION  
14          PENDING.—The Secretary may not remove an alien  
15          from the United States who appears prima facie eli-  
16          gible for provisional protected presence while the  
17          alien’s application for provisional protected presence  
18          is pending.

19          “(4) SPECIAL CIRCUMSTANCES.—An alien who  
20          is in removal proceedings, is the subject of a final  
21          removal order, or is the subject of a voluntary depar-  
22          ture order may apply for provisional protected pres-  
23          ence under this section if the alien—

24                 “(A) appears prima facie eligible for provi-  
25                 sional protected presence; and

1           “(B) is not in immigration detention.

2           “(5) ALIENS IN IMMIGRATION DETENTION.—

3           The Secretary shall provide any alien in immigration  
4           detention who appears prima facie eligible for provi-  
5           sional protected presence, upon request, with a rea-  
6           sonable opportunity to apply for provisional pro-  
7           tected presence under this section.

8           “(6) CONFIDENTIALITY.—

9           “(A) IN GENERAL.—The Secretary shall  
10          protect information provided in applications for  
11          provisional protected presence under this sec-  
12          tion and in requests for consideration of DACA  
13          from disclosure to U.S. Immigration and Cus-  
14          toms Enforcement and U.S. Customs and Bor-  
15          der Protection for the purpose of immigration  
16          enforcement proceedings.

17          “(B) REFERRALS PROHIBITED.—The Sec-  
18          retary may not refer individuals whose cases  
19          have been deferred pursuant to DACA or who  
20          have been granted provisional protected pres-  
21          ence under this section to U.S. Immigration  
22          and Customs Enforcement.

23          “(C) LIMITED EXCEPTION.—The informa-  
24          tion submitted in applications for provisional  
25          protected presence under this section and in re-

1           quests for consideration of DACA may be  
2           shared with national security and law enforce-  
3           ment agencies—

4                   “(i) for assistance in the consideration  
5                   of the application for provisional protected  
6                   presence;

7                   “(ii) to identify or prevent fraudulent  
8                   claims;

9                   “(iii) for national security purposes;  
10                  and

11                   “(iv) for the investigation or prosecu-  
12                   tion of any felony not related to immigra-  
13                   tion status.

14           “(g) RESCISSION OF PROVISIONAL PROTECTED  
15 PRESENCE.—The Secretary may not rescind an alien’s  
16 provisional protected presence or employment authoriza-  
17 tion granted under this section unless the Secretary deter-  
18 mines that the alien—

19                   “(1) has been convicted of—

20                           “(A) a felony;

21                           “(B) a significant misdemeanor; or

22                           “(C) three or more misdemeanors not oc-  
23                   curring on the same date and not arising out of  
24                   the same act, omission, or scheme of mis-  
25                   conduct;

1           “(2) poses a threat to national security or a  
2           threat to public safety;

3           “(3) has traveled outside of the United States  
4           without authorization from the Secretary; or

5           “(4) has ceased to continuously reside in the  
6           United States.

7           “(h) TREATMENT OF BRIEF, CASUAL, AND INNO-  
8           CENT DEPARTURES AND CERTAIN OTHER ABSENCES.—  
9           For purposes of subsections (c)(3) and (g)(4), an alien  
10          shall not be considered to have failed to continuously re-  
11          side in the United States due to—

12           “(1) brief, casual, and innocent absences from  
13          the United States during the period beginning on  
14          June 15, 2007, and ending on August 14, 2012; or

15           “(2) travel outside of the United States on or  
16          after August 15, 2012, if such travel was authorized  
17          by the Secretary.

18          “(i) EFFECT OF DEFERRED ACTION UNDER DE-  
19          FERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM.—

20           “(1) PROVISIONAL PROTECTED PRESENCE.—A  
21          DACA recipient is deemed to have provisional pro-  
22          tected presence under this section through the expi-  
23          ration date of the alien’s deferred action status, as  
24          specified by the Secretary in conjunction with the  
25          approval of the alien’s DACA application.

1           “(2) EMPLOYMENT AUTHORIZATION.—If a  
2           DACA recipient has been granted employment au-  
3           thorization by the Secretary in addition to deferred  
4           action, the employment authorization shall continue  
5           through the expiration date of the alien’s deferred  
6           action status, as specified by the Secretary in con-  
7           junction with the approval of the alien’s DACA ap-  
8           plication.

9           “(3) EFFECT OF APPLICATION.—If a DACA re-  
10          cipient files an application for provisional protected  
11          presence under this section not later than the expi-  
12          ration date of the alien’s deferred action status, as  
13          specified by the Secretary in conjunction with the  
14          approval of the alien’s DACA application, the alien’s  
15          provisional protected presence, and any employment  
16          authorization, shall remain in effect pending the ad-  
17          judication of such application.”.

18          (b) CLERICAL AMENDMENT.—The table of contents  
19          for the Immigration and Nationality Act (8 U.S.C. 1101  
20          note) is amended by inserting after the item relating to  
21          section 244 the following:

“Sec. 244A. Provisional protected presence.”.

○