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Statement of the American Immigration Lawyers Association

Submitted to the House Judiciary Committee Markup of H.R. 2820, the “Dream Act of 2019” and H.R. 2821, the “American Promise Act of 2019”

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Contact: Kate Voigt
Associate Director of Government Relations
kvoigt@aila.org, 202-507-7626

For more than two decades, Congress has been unable to pass critically needed reforms to the nation’s immigration system, leaving our country unable to fully capture the enormous benefits that immigrants and their families bring to their communities, businesses, the economy, and the country. With the announced rescission of the Deferred Action for Childhood Arrivals (DACA) program and the termination of Temporary Protected Status (TPS) for many designated countries, Dreamers and TPS recipients are at heightened risk of deportation and separation from their families.

As the national bar association of over 15,000 immigration lawyers and law professors, the American Immigration Lawyers Association (AILA) urges the Judiciary Committee to pass the Dream Act of 2019 (H.R. 2820) and the American Promise Act of 2019 (H.R. 2821). AILA has members nationwide who have represented thousands of Dreamers and TPS recipients, as well their families and the businesses that employ them in all sectors of the American economy. Providing them with permanent legal status and a path to citizenship would uphold our American values and contribute to our communities and our economy.

Congress Must Protect Dreamers

It is past time for Congress to pass legislation to protect Dreamers from deportation and secure their future as Americans. Overwhelmingly, the American public supports protecting Dreamers; 83 percent say Dreamers should be allowed to live and work in the United States.¹ Economic studies have shown that Dreamers are valued members of their communities and will contribute as much as \$1 trillion dollars in GDP over the next decade.² Deporting Dreamers would harm the economy to the order of hundreds of billions of dollars in revenue, including to Social Security and Medicare, as well as major losses in economic growth and jobs.³

Members of Congress from both sides of the aisle clearly understand and agree with the broad public support for Dreamers. Over the past few years, many bills that protect Dreamers have been introduced in Congress, most of them bipartisan.⁴ These bills recognize the need to provide protection from deportation and permanent legal status for applicants who pass the rigorous screening process and background checks and demonstrate that they meet defined eligibility requirements. Most past proposals also recognize the importance of providing an opportunity for those who qualify to apply for citizenship should they choose. This reflects the overwhelming support of the American public: A September 2017 Fox News poll

concluded that 4 out of 5 Americans support providing Dreamers with an opportunity to apply for citizenship.⁵

Congress Must Protect TPS Recipients

For two decades, Presidents have employed TPS to protect certain classes of undocumented individuals from deportation. If the Department of Homeland Security (DHS) determines a foreign country is experiencing armed conflict, natural disaster, or other extraordinary circumstances that would make the return of that country's nationals dangerous or impractical, the Secretary may designate that country for TPS.⁶ TPS provides employment authorization and protection from deportation for the nationals from these designated countries who reside in the United States.⁷ Since the creation of TPS, both Republican and Democratic administrations have designated and extended TPS for various countries, in some cases for several decades.⁸

TPS recipients, like Dreamers, are long-standing members of our communities. They have built lives, families, businesses, and careers in the United States. TPS recipients are also integral members of our economy – without them, industries such as construction, restaurants and other food services, and landscaping would experience disruptions that would have serious ripple effects on the economies of several states.⁹ According to the Immigrant Legal Resource Center, without Salvadoran, Honduran, and Haitian TPS workers, the United States economy would lose \$4.5 billion in gross domestic product per year and Social Security and Medicare would lose \$6.9 billion in contributions over ten years.¹⁰ Bipartisan bills to protect TPS recipients from deportation have also been introduced by members of Congress.¹¹ It is time for Congress to recognize the contributions of long-term TPS recipients by permanently protecting them from deportation and providing a path to citizenship.

Dreamers and TPS Recipients Are at Greater Risk of Deportation

In June of 2012, the Obama administration announced DACA, a prosecutorial discretion initiative that allowed Dreamers who met certain eligibility requirements to apply for protection from deportation and work authorization.¹² While the program was merely a stopgap measure until Congress passed legislation, it provided important temporary protections for Dreamers. Since taking office, President Trump has attempted to terminate the DACA program as well as end Temporary Protected Status (TPS) for the nationals of several countries.¹³ The end of these humanitarian initiatives would revoke employment authorization and legal protection for hundreds of thousands of people, nearly all of whom have lived in the country for years and have family members, jobs, and other substantial ties to their communities.

While courts have temporarily enjoined the rescission of DACA and termination of TPS for several countries, these orders are not permanent. Dreamers and TPS recipients are left in an untenable state of limbo, never sure when their work authorization and protection from deportation might be taken away in an instant by a higher court's ruling. Moreover, the court order enjoining some TPS terminations does not protect people from several TPS countries. TPS recipients from Honduras and Nepal will see their protections expire within the next year barring further developments.¹⁴ Similarly, the court orders enjoining the termination of DACA does not protect Dreamers who have never applied for DACA but are eligible, Dreamers whose DACA expired more than a year before the rescission of the program, or Dreamers who have since aged into the program. Alarming, AILA members have reported that some DACA recipients who are covered by the court orders are nonetheless being put into removal proceedings.

Without protection from deportation, immigrants are at grave risk of being separated from their families, detained, and deported.¹⁵ U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) are targeting people they can quickly identify and deport, including people who

have families, jobs and strong community ties and who pose no threat to public safety. Under current enforcement policies, ICE and CBP are pursuing people who are eligible for immigration relief but have not received a decision or have not yet applied, as well as people who have compelling equities that weigh in favor of the exercise of prosecutorial discretion.

American Needs Immigration Reform

While passing the Dream Act of 2019 (H.R. 2820) and the American Promise Act of 2019 (H.R. 2821) is a vital first step, AILA also calls upon Congress and the President to overcome partisan differences and enact laws that update our legal immigration system and bring it into the twenty first century. Reforms must legalize the unauthorized population who are contributing economically, socially, and culturally to their communities and to the nation. Immigration reform also must include changes to the legal immigration system to meet the needs of American families and businesses and reforms to ensure the fair and efficient operation of our laws consistent with due process. Border security and interior enforcement are necessary components of reform but must be done in a smart, effective, and humane manner.

Immigration benefits our nation and is essential to our well-being and future growth, particularly as the Baby Boomer generation continues to retire and the growth of the labor force slows. Our nation must keep its doors open to immigrants, their families, foreign travelers, international entrepreneurs and businesses to ensure our nation's continued prosperity.

¹ America's Voice, *CNN Poll: By 83-12%, Americans Want Dreamers Protected; Strong Majority Hold Trump & GOP Responsible for Inaction* (February 28, 2018), https://americasvoice.org/press_releases/cnn-poll-83-12-americans-want-dreamers/.

² Center for American Progress, *The Economic Benefits of Passing the Dream Act* (September 18, 2018), <https://www.americanprogress.org/issues/immigration/reports/2017/09/18/439134/economic-benefits-passing-dream-act/>.

³ *Id.*; CATO Institute, *Ending DACA Will Impose Billions in Employer Compliance Costs* (September 1, 2017), <https://www.cato.org/blog/ending-daca-will-impose-billions-employer-compliance-costs>; CATO Institute, *Five Myths About DACA* (September 7, 2017); FWD.us and Center for American Progress, *Study: The Impact of Deferred Action for Childhood Arrivals (DACA) Program Repeal on Jobs* (last visited May 21, 2019), <https://36shgf3jsufe2xojr925ehv6-wpengine.netdna-ssl.com/wp-content/uploads/2018/07/20170823-DACA-Job-Loss-Report.pdf>; Immigrant Legal Resource Center and Tom Wong, *Draining the Trust Funds: Ending DACA and the Consequences to Social Security and Medicare*, <https://www.ilrc.org/report-daca-economic-cost>.

⁴ See Dream Act (S. 1615 and H.R. 3440); American Hope Act ("Hope Act," H.R. 3591), Recognizing America's Children Act ("RAC Act," H.R. 1468), and SUCCEED Act (S.1852).

⁵ Fox News, *Fox News Poll: September 28, 2017* (September 28, 2017),

<http://www.foxnews.com/politics/interactive/2017/09/28/fox-news-poll-september-28-2017.html>

⁶ 8 USC § 1254a.

⁷ The Bipartisan Policy Center, *Temporary Protected Status (TPS): An Explainer* (December 21, 2018), <https://bipartisanpolicy.org/blog/temporary-protected-status-tps-an-explainer/>.

⁸ Madeline Messick and Claire Bergeron, *Temporary Protected Status in the United States: A Grant of Humanitarian Relief that Is Less than Permanent*, Migration Policy Institute (July 2, 2014), <https://www.migrationpolicy.org/article/temporary-protected-status-united-states-grant-humanitarian-relief-less-permanent>.

⁹ American Immigration Council, *Workers with Temporary Protected Status in Key Industries and States* (January 9, 2019), <https://www.americanimmigrationcouncil.org/research/workers-temporary-protected-status-key-industries-and-states>.

¹⁰ Immigrant Legal Resource Center, *Economic Contributions by Salvadoran, Honduran, and Haitian TPS Holders* (April 2017), https://www.ilrc.org/sites/default/files/resources/2017-04-18_economic_contributions_by_salvadoran_honduran_and_haitian_tps_holders.pdf.

¹¹ The Bipartisan Policy Center, *Temporary Protected Status (TPS): An Explainer* (December 21, 2018), <https://bipartisanpolicy.org/blog/temporary-protected-status-tps-an-explainer/>.

¹² See Memorandum from Janet Napolitano, Secretary, U.S. Department of Homeland Security on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children to David V. Aguilar, Acting Commissioner, U.S. Customs and Border Protection, et al. (June 15, 2012), <http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

¹³ The Bipartisan Policy Center, *Temporary Protected Status (TPS): An Explainer* (December 21, 2018), <https://bipartisanpolicy.org/blog/temporary-protected-status-tps-an-explainer/>.

¹⁴ CLINIC, *Temporary Protected Status (TPS) and Deferred Enforced Departure (DED)* (last visited May 21, 2019), <https://cliniclegal.org/tps>.

¹⁵ American Immigration Lawyers Association, *Cogs in the Deportation Machine: How Policy Changes by the Trump Administration Have Touched Every Major Area of Enforcement* (April 24, 2018), www.aila.org/deportationmachine.