

DACA recipients can't legally practice law in Utah. The state's Supreme Court may change that

The Utah Supreme Court, which governs the practice of law in the state, is considering a petition from two Utah law school graduates who are identified in court filings as Jane and Mary Doe

By [Annie Knox@anniebknox](mailto:AnnieKnox@anniebknox)

Oct 7, 2019, 7:34pm MDT

<https://www.deseret.com/utah/2019/10/7/20903733/daca-recipients-cant-legally-practice-law-in-utah-the-states-supreme-court-may-change-that>



SALT LAKE CITY — Utah's high court is considering whether to allow undocumented law school graduates to legally practice their profession in the Beehive State.

Those who were brought to the U.S. as children but are not citizens currently cannot take the bar exam in Utah, a barrier the Utah State Bar and other groups are seeking to remove.

The Utah Supreme Court, which governs the practice of law in the state, heard arguments Monday in the case brought by two Utah law school graduates who are identified in court filings as Jane and Mary Doe.

Both are recipients of the Deferred Action for Childhood Arrivals program, which shields them from deportation and allows them to lawfully work in the U.S. The court took their case under advisement Monday and is expected to rule at a later date.

One of the graduates attended law school at Brigham Young University, while the other went to the University of Utah. Both passed the bar in California but can't work in general practice in the state they call home, though federal law permits one of the women to practice immigration law in Utah, according to her attorney Anthony Kaye, with the law firm Ballard Spahr.

Those in their situation face a system that Kaye called "inhumane." They meet or surpass the same rigorous standards as their peers, he said, but are denied a license based on a different family history.

Other states, including Florida, New York and New Jersey, have previously allowed so-called Dreamers to take the bar.

The issue has raised thorny legal questions in Utah, however.

The Utah Supreme Court has exclusive authority over the practice of law in the state. But a 1996 federal law prohibits states from issuing licenses to some undocumented residents without an act of the Legislature.

An attorney representing the Utah Legislature said it defers to the high court on the matter, while a representative from the U.S. Department of Justice argued Monday that Utah lawmakers must take action under the federal requirement.

Such a move, however, would encroach on an independent judiciary, said Elizabeth Wright, general counsel for the Utah State Bar.

The Utah affiliate of the American Civil Liberties Union also believes the court can and should allow lawyers to be admitted to the bar regardless of their immigration status.

"We certainly don't want to be treating someone differently because of their immigration status if they have all the requirements under their belt to be a high-performing member of the bar," said Brittney Nystrom, Executive Director of the ACLU Utah.

Her group joined the Utah Minority Bar Association and others in filing friend-of-the-court briefs in support of the two anonymous plaintiffs.

Last year, a Utah legislative panel that is focused on issues facing the judiciary considered the issue but ultimately decided to let the petition run its course.