

Obama's immigration executive order: Here are the details

Under President Barack Obama's immigration executive order, announced on Thursday, November 20, 2014, illegal immigrants who have minor run-ins with law enforcement will not have to worry about the incident triggering deportation.

Obama is ordering a series of administrative changes in rules and refocusing enforcement priorities and prosecutorial discretion. Combined, these actions, are in line with past presidential precedents and therefore can survive a legal challenge.

Here are some of the changes that will allow about 5 million illegal immigrants to remain in the U.S. *A full copy of the White House fact sheet is at the end of this post.*

ENFORCEMENT

The Department of Homeland Security, which enforces immigration laws through a branch nicknamed "ICE" – Immigration and Customs Enforcement – will be shifting priorities.

DHS Secretary Jeh Johnson will be issuing a memo ordering law enforcement officials to focus on illegal immigrants with criminal convictions and recent illegal arrivals – especially those who pose threats, such as gang members and terrorists or other criminals. They will be at "the top of the deportation priority list."

"This is very basic prosecutorial discretion, " a White House

official said. “. . . the same sort of choice prosecutors use every day.”

Immigration officials have enormous “latitude to pick and chose who they go after.”

EXPANDING DEFERRED ACTIONS

For parents of citizens or permanent residents...

Some four million illegal immigrants may be impacted in a new program intended to help the parents of U.S. citizens or permanent residents. They will be allowed to stay if they have lived in the U.S. for five years or longer, register, pass a criminal background check and pay taxes.

From a White House fact sheet: “Individuals will have the opportunity to request temporary relief from deportation and work authorization for three years at a time if they come forward and register, submit biometric data, pass background checks, pay fees, and show that their child was born before the date of this announcement. By providing individuals with an opportunity to come out of the shadows and work legally, we will also help crack down on companies who hired undocumented workers, which undermines the wages of all workers, and ensure that individuals are playing by the rules and paying their fair share of taxes.”

DACA provisions...

Under a program known as “DACA” – Deferred Action for Childhood Arrivals – created under an Obama June 15, 2012 order, youths known as “DREAMers,” illegally in the U.S. through no fault of their own, were eligible to be granted a low priority enforcement status allowing them to stay in the U.S. and not worry about deportation.

Obama’s order eliminates the age cap and expands the universe of people who can stay. Immigration officials, using

prosecutorial discretion, will put a low priority enforcement of low risk law abiding illegal immigrants.

As in the 2012 DACA, this is not a pathway to citizenship and it does not grant a legal status. For three years, law enforcement officials will not go after DREAMers who pass a criminal background check and other criteria. This will allow them to work legally and and pay taxes. **It is temporary and it is revocable.**

From a White House fact sheet: "Under the initial DACA program, young people who had been in the U.S. for at least five years, came as children, and met specific education and public safety criteria were eligible for temporary relief from deportation so long as they were born after 1981 and entered the country before June 15, 2007. DHS is expanding DACA so that individuals who were brought to this country as children can apply if they entered before January 1, 2010, regardless of how old they are today. Going forward, DACA relief will also be granted for three years."

Nothing in the executive order covers the parents of DREAMers.

OTHER CHANGES TO THE CURRENT IMMIGRATION SYSTEM

Foreign students studying in the science and technology fields in the U.S. will find it easier to obtain a visa to allow them to stay.

A new program will be created to let entrepreneurs come to the U.S. if they can demonstrate they have investors and will create jobs in the U.S.

TIMETABLE

The range of actions Obama is announcing on Thursday have different timelines for implementation. The deferred action programs could be up and running by the spring. The DACA expansions may kick in next spring. The tech and entrepreneur

visa waivers have to go through a rule making process which could take a year or 18 months.

BELOW, FROM THE WHITE HOUSE

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

November 20, 2014

FACT SHEET: Immigration Accountability Executive Action

The President's Immigration Accountability Executive Actions will help secure the border, hold nearly 5 million undocumented immigrants accountable, and ensure that everyone plays by the same rules. Acting within his legal authority, the President is taking an important step to fix our broken immigration system.

These executive actions crack down on illegal immigration at the border, prioritize deporting felons not families, and require certain undocumented immigrants to pass a criminal background check and pay their fair share of taxes as they register to temporarily stay in the U.S. without fear of deportation.

These are common sense steps, but only Congress can finish the job. As the President acts, he'll continue to work with

Congress on a comprehensive, bipartisan bill—like the one passed by the Senate more than a year ago—that can replace these actions and fix the whole system.

Three critical elements of the President's executive actions are:

- *Cracking Down on Illegal Immigration at the Border:* The President's actions increase the chances that anyone attempting to cross the border illegally will be caught and sent back. Continuing the surge of resources that effectively reduced the number of unaccompanied children crossing the border illegally this summer, the President's actions will also centralize border security command-and-control to continue to crack down on illegal immigration.

- *Deporting Felons, Not Families:* The President's actions focus on the deportation of people who threaten national security and public safety. He has directed immigration enforcement to place anyone suspected of terrorism, violent criminals, gang members, and recent border crossers at the top of the deportation priority list.

- *Accountability – Criminal Background Checks and Taxes:* The President is also acting to hold accountable those undocumented immigrants who have lived in the US for more than five years and are parents of U.S. citizens or Lawful Permanent Residents. By registering and passing criminal and national security background checks, millions of undocumented immigrants will start paying their fair share of taxes and temporarily stay in the U.S. without fear of deportation for three years at a time.

The President's actions will also streamline legal immigration to boost our economy and will promote naturalization for those who qualify.

For more than a half century, every president—Democratic or Republican—has used his legal authority to act on immigration. President Obama is now taking another commonsense step. As the Administration implements these executive actions, Congress should finish the job by passing a bill like the bipartisan Senate bill that: continues to strengthen border security by adding 20,000 more Border Patrol agents; cracks down on companies who hire undocumented workers; creates an earned path to citizenship for undocumented immigrants who pay a fine and taxes, pass a background check, learn English and go to the back of the line; and boosts our economy and keeps families together by cutting red tape to simplify our legal immigration process.

CRACKING DOWN ON ILLEGAL IMMIGRATION AT THE BORDER

Under the Obama Administration, the resources that the Department of Homeland Security (DHS) dedicates to security at the Southwest border are at an all-time high. Today, there are 3,000 additional Border Patrol agents along the Southwest Border and our border fencing, unmanned aircraft surveillance systems, and ground surveillance systems have more than doubled since 2008. Taken as a whole, the additional boots on the ground, technology, and resources provided in the last six years represent the most serious and sustained effort to secure our border in our Nation's history, cutting illegal border crossings by more than half.

And this effort is producing results. From 1990 to 2007, the population of undocumented individuals in the United States grew from 3.5 million to 11 million people. Since then, the

size of the undocumented population has stopped growing for the first time in decades. Border apprehensions—a key indicator of border security—are at their lowest level since the 1970s. This past summer, the President and the entire Administration responded to the influx of unaccompanied children with an aggressive, coordinated Federal response focused on heightened deterrence, enhanced enforcement, stronger foreign cooperation, and greater capacity for Federal agencies to ensure that our border remains secure. As a result, the number of unaccompanied children attempting to cross the Southwest border has declined precipitously, and the Administration continues to focus its resources to prevent a similar situation from developing in the future.

To build on these efforts and to ensure that our limited enforcement resources are used effectively, the President has announced the following actions:

- Shifting resources to the border and recent border crossers. Over the summer, DHS sent hundreds of Border Patrol agents and U.S. Immigration and Customs Enforcement (ICE) personnel to the Southwest border, and the Department of Justice (DOJ) reordered dockets in immigration courts to prioritize removal cases of recent border crossers. This continued focus will help keep our borders safe and secure. In addition, Secretary Johnson is announcing a new Southern Border and Approaches Campaign Plan which will strengthen the efforts of the agencies who work to keep our border secure. And by establishing clearer priorities for interior enforcement, DHS is increasing the likelihood that people attempting to cross the border illegally will be apprehended and sent back.

- Streamlining the immigration court process. DOJ is announcing a package of immigration court reforms that will address the backlog of pending cases by working with DHS to

more quickly adjudicate cases of individuals who meet new DHS-wide enforcement priorities and close cases of individuals who are low priorities. DOJ will also pursue regulations that adopt best practices for court systems to use limited court hearing time as efficiently as possible.

- Protecting victims of crime and human trafficking as well as workers. The Department of Labor (DOL) is expanding and strengthening immigration options for victims of crimes (U visas) and trafficking (T visas) who cooperate in government investigations. An interagency working group will also explore ways to ensure that workers can avail themselves of their labor and employment rights without fear of retaliation.

DEPORTING FELONS, NOT FAMILIES

By setting priorities and focusing its enforcement resources, the Obama Administration has already increased the removal of criminals by more than 80%. These actions build on that strong record by:

- Focusing on the removal of national security, border security, and public safety threats. To better focus on the priorities that matter, Secretary Johnson is issuing a new DHS-wide memorandum that makes clear that the government's enforcement activity should be focused on national security threats, serious criminals, and recent border crossers. DHS will direct all of its enforcement resources at pursuing these highest priorities for removal.

- Implementing a new Priority Enforcement Program. Effectively identifying and removing criminals in state and local jails is a critical goal but it must be done in a way that sustains the community's trust. To address concerns from Governors, Mayors, law enforcement and community

leaders which have undermined cooperation with DHS, Secretary Johnson is replacing the existing Secure Communities program with a new Priority Enforcement Program (PEP) to remove those convicted of criminal offenses. DHS will continue to rely on biometric data to verify individuals who are enforcement priorities, and they will also work with DOJ's Bureau of Prisons to identify and remove federal criminals serving time as soon as possible.

ACCOUNTABILITY – CRIMINAL BACKGROUND CHECKS AND TAXES

Every Democratic and Republican president since Dwight Eisenhower has taken executive action on immigration. Consistent with this long history, DHS will expand the existing Deferred Action for Childhood Arrivals (DACA) program to include more immigrants who came to the U.S. as children. DHS will also create a new deferred action program for people who are parents of U.S. Citizens or Lawful Permanent Residents (LPRs) and have lived in the United States for five years or longer if they register, pass a background check and pay taxes.

The President is taking the following actions to hold accountable certain undocumented immigrants:

- Creating a mechanism that requires certain undocumented immigrants to pass a background check to make sure that they start paying their fair share in taxes. In order to promote public safety, DHS is establishing a new deferred action program for parents of U.S. Citizens or LPRs who are not enforcement priorities and have been in the country for more than 5 years. Individuals will have the opportunity to request temporary relief from deportation and work authorization for three years at a time if they come forward and register, submit biometric data, pass background checks, pay fees, and show that their child was born before

the date of this announcement. By providing individuals with an opportunity to come out of the shadows and work legally, we will also help crack down on companies who hired undocumented workers, which undermines the wages of all workers, and ensure that individuals are playing by the rules and paying their fair share of taxes.

- Expanding DACA to cover additional DREAMers. Under the initial DACA program, young people who had been in the U.S. for at least five years, came as children, and met specific education and public safety criteria were eligible for temporary relief from deportation so long as they were born after 1981 and entered the country before June 15, 2007. DHS is expanding DACA so that individuals who were brought to this country as children can apply if they entered before January 1, 2010, regardless of how old they are today. Going forward, DACA relief will also be granted for three years.

The President's actions will also streamline legal immigration to boost our economy and promote naturalization by:

- Providing portable work authorization for high-skilled workers awaiting LPR status and their spouses. Under the current system, employees with approved LPR applications often wait many years for their visa to become available. DHS will make regulatory changes to allow these workers to move or change jobs more easily. DHS is finalizing new rules to give certain H-1B spouses employment authorization as long as the H-1B spouse has an approved LPR application.

- Enhancing options for foreign entrepreneurs. DHS will expand immigration options for foreign entrepreneurs who meet certain criteria for creating jobs, attracting investment, and generating revenue in the U.S., to ensure that our system encourages them to grow our economy. The criteria will include income thresholds so that these individuals are not eligible for certain public benefits like welfare or tax credits under the Affordable Care Act.

- Strengthening and extending on-the-job training for STEM graduates of U.S universities. In order to strengthen educational experiences of foreign students studying science, technology, engineering, and mathematics (STEM) at U.S. universities, DHS will propose changes to expand and extend the use of the existing Optional Practical Training (OPT) program and require stronger ties between OPT students and their colleges and universities following graduation.

- Streamlining the process for foreign workers and their employers, while protecting American workers. DHS will clarify its guidance on temporary L-1 visas for foreign workers who transfer from a company's foreign office to its U.S. office. DOL will take regulatory action to modernize the labor market test that is required of employers that sponsor foreign workers for immigrant visas while ensuring that American workers are protected.

- Reducing family separation for those waiting to obtain LPR status. Due to barriers in our system, U.S. citizens and LPRs are often separated for years from their immediate relatives, while they wait to obtain their LPR status. To reduce the time these individuals are separated, DHS will expand an existing program that allows certain individuals to apply for a provisional waiver for certain violations before departing the United States to attend visa interviews.

- Ensuring that individuals with lawful status can travel to their countries of origin. DHS will clarify its guidance to provide greater assurance to individuals with a pending LPR application or certain temporary status permission to travel abroad with advance permission ("parole").

- Issuing a Presidential Memorandum on visa modernization. There are many ways in which our legal immigration system can be modernized to reduce government costs, eliminate redundant systems, reduce burdens on

employers and families, and eliminate fraud. The President is issuing a Memorandum directing an interagency group to recommend areas for improvement.

- Creating a White House Task Force on New Americans. The President is creating a White House Task Force on New Americans to create a federal strategy on immigrant integration.

- Promoting Citizenship Public Awareness: DHS will launch a comprehensive citizenship awareness media campaign in the 10 states that are home to 75 percent of the overall LPR population. USCIS will also expand options for paying naturalization fees and explore additional measures to expand accessibility, including studying potential partial fee waiver for qualified individuals.

- Ensuring U.S. Citizens Can Serve: To further our military's needs and support recruitment efforts, DHS will expand an existing policy to provide relief to spouses and children of U.S. citizens seeking to enlist in the military, consistent with a request made by the Department of Defense.

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