



A STEP FORWARD

Immigration Executive Actions & Our Nation's Children

Wendy D. Cervantes

Director, First Focus Center for the Children of Immigrants

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On November 20th, the Obama Administration announced executive actions to help fix the nation's broken immigration system. The reforms include expansion of the 2012 Deferred Action for Childhood Arrivals (DACA) program, a new Deferred Action for Parental Accountability (DAPA) program, expansion of the stateside provisional waiver program, an end to the Secure Communities program, and other reforms to the immigration system. Altogether, these actions have the potential to benefit an estimated 4.9 million individuals. This brief provides an overview of some of the key reforms impacting children and families, as well as an analysis of the overall impact on child and family well-being.

PROMOTING BETTER OPPORTUNITIES FOR UNDOCUMENTED YOUTH

Expansion of the Deferred Action for Childhood Arrivals (DACA) Program

The new executive immigration accountability actions include significant changes to the 2012 DACA program that have the potential to reach up to an additional 300,000 individuals who entered the U.S. as children.ⁱ

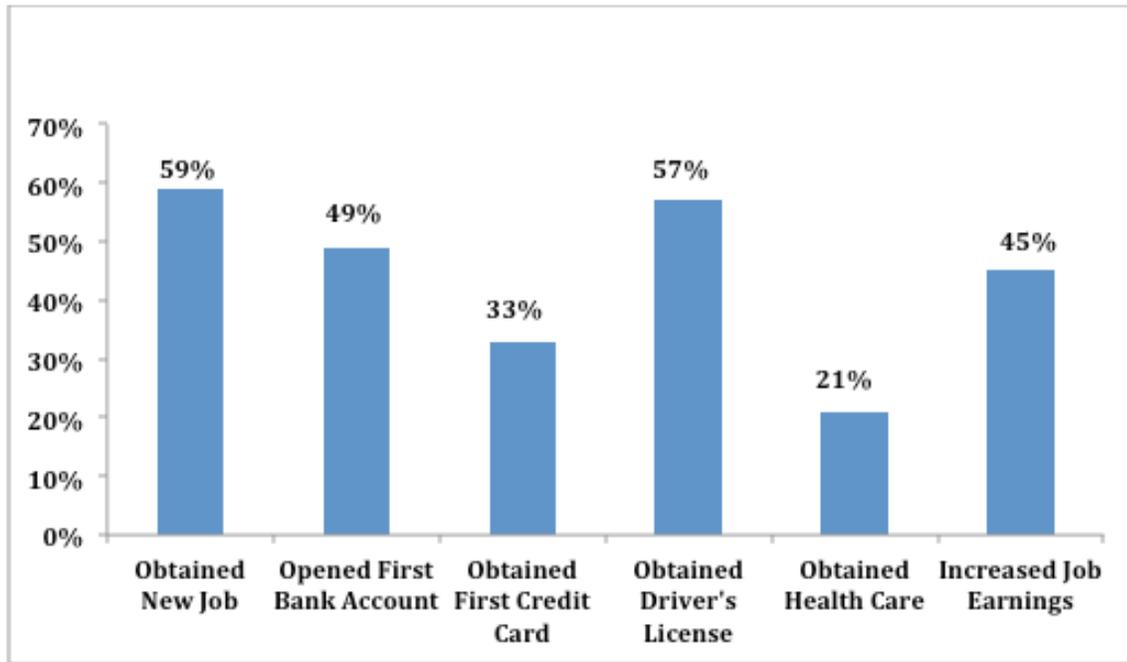
To qualify for the expanded renewable three-year DACA program an individual must meet the following requirements:

- Have been physically present in the U.S. on November 20, 2014.
- Entered the U.S. prior to age sixteen. The new program removes the previous upper age cap of 30 and expands the program to all individuals who entered the U.S. prior to turning sixteen, regardless of their current age. Individuals who were left out of the 2012 DACA program because they were older than age 30 on June 15, 2012 will now be eligible to apply.
- Have continuously resided in the U.S. since January 1, 2010. This modifies the previous continuous presence requirement of June 15, 2007.
- Be at least 15 years of age on date of application.
- Be "enrolled in school" or have obtained a high school diploma or general education development (GED) certificate on the date of application.
- Have not been convicted of certain criminal offenses.
- Pass a background check.
- Pay a \$465 fee.

The expansion of the DACA program means that more youth who have grown up in the U.S. will be better able to access affordable higher education and employment opportunities as well as obtain a driver's license in some states. In fact, findings from the National unDACAmented Research Project (NURP) reveal that among current DACA beneficiaries, more than 70 percent have been able to secure a job, more than 60 percent have obtained a driver's license, more than half have opened their first bank account, and more than one third have obtained their first credit card.ⁱⁱ Furthermore, the DACA program has helped improve higher education attainment among beneficiaries who are now better able to afford college expenses as a result of being able to work as well as state policies that permit them to qualify for in-state tuition.ⁱⁱⁱ



Resources Accessed by DACA Recipients



Source: *Two Years and Counting: Assessing the Growing Power of DACA*. (Washington, DC: American Immigrant Council, June 2014)

It is important to note that while the expansion of the DACA program removes the upper age cap, the program still requires youth to be at least 15 years of age to apply. According to estimates by the Migration Policy Institute, this minimum age requirement has left 470,000 children currently waiting to “age into” the program.^{iv} Excluding young children from the DACA program means that they will continue to live without status until their fifteen birthday, creating divisions in status within families and leaving children vulnerable to deportation. While the DACA program creates an exception for children in removal proceedings to apply if they are otherwise eligible, deportation risk still exists.

IMPROVING OUTCOMES FOR CHILDREN IN MIXED-STATUS FAMILIES & KEEPING FAMILIES TOGETHER

New Deferred Action for Parental Accountability (DAPA) Program

The new DAPA program has the potential to benefit an estimated 4.1 million undocumented parents of U.S. citizens and lawful permanent residents (LPRs) by protecting them from deportation and providing them with a three-year renewable reprieve from deportation and work authorization.^v

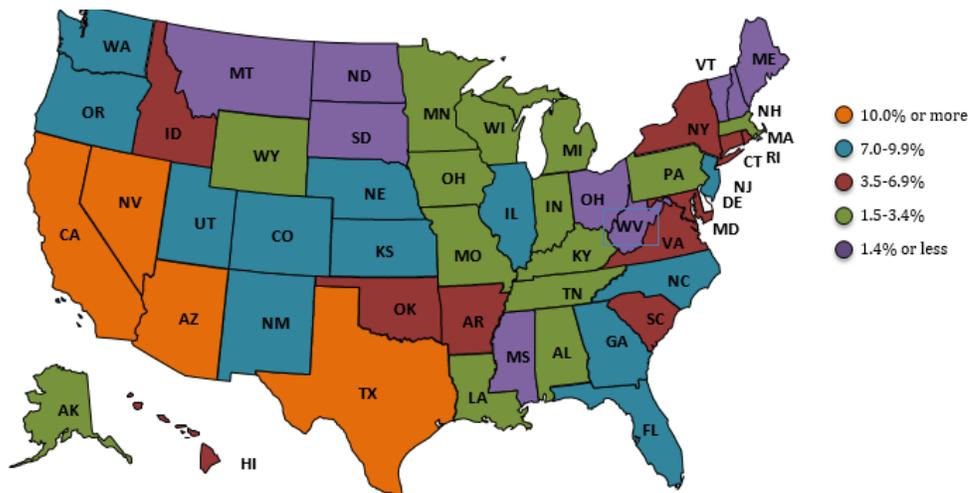


To qualify for the new DAPA program, individuals must meet the following requirements:

- Be the parent of a U.S. citizen or lawfully permanent resident (LPR).
- Have been physically present in the U.S. on November 20, 2014.
- Have continuously resided in the U.S. since January 1, 2010.
- Not have lawful immigration status.
- Have not been convicted of certain criminal offenses.
- Pass a background check.
- Pay a \$465 fee.

By shielding eligible parents from deportation, it is estimated that up to 4.5 million U.S. citizen children who currently live in mixed-status families will no longer face the risk of being separated from a parent simply due to immigration enforcement measures.^{vi} New data from the Pew Hispanic Center reveals that in 2012, children with at least one undocumented parent made up 6.9 percent of all U.S. students in kindergarten through 12th grade, and therefore the new executive actions will directly impact the lives of these students.^{vii} In states with higher numbers of mixed-status families, the executive actions have the potential to impact much larger shares of the student population, including up to 17.7 percent of K-12 students in Nevada and 13.2 percent in California.^{viii}

K-12 Students with Unauthorized Parent(s), by State (2012)



Source: Pew Research Hispanic Trends Project



Research has consistently documented the negative impacts of immigration enforcement on children, with negative consequences for their mental and physical health, economic security, and school performance.^{ix} In just 2012 alone, it is estimated that over 152,000 U.S. citizen children were impacted by a parent's deportation.^x Children who have had a parent detained or deported are more likely to fall into poverty, experience food and housing instability, and are at greater risk of entering the child welfare system.^{xi} A study by Human Impact Partners reveals that 85 percent of children with undocumented parents demonstrated signs of post-traumatic stress disorder, which affirms that even the fear alone of losing a parent can have a detrimental impact on children.^{xiii} The new DAPA program will finally help lift the cloud of deportation from these children and families.

Research has also shown that a parent's undocumented status can impact a child's development and economic security as a result of the limited employment options for undocumented workers and lack of access to critical income supports like the Earned Income Tax Credit (EITC).^{xiii} In fact, children in mixed-status families are more likely to live near or below the federal poverty level, with average household incomes under \$38,000.^{xiv} Children in mixed-status families are also less likely to participate in public safety net programs due to language barriers, confusing immigrant eligibility rules, and the common fear among undocumented parents of possible immigration enforcement repercussions should they seek out critical services on behalf of their eligible children.^{xv} With protection from deportation and access to work authorization, parents who obtain relief through the DAPA program will be better able to provide for their children and focus on their child's developmental needs. By obtaining Social Security numbers and paying taxes, working parents who meet the necessary requirements will also have access to both the EITC and the Child Tax Credit (CTC), two proven tools for fighting child poverty.

While the new DAPA program will improve the lives of a significant portion of mixed-status families living in the U.S., it is important to note that it falls short of covering all families. The parents of DACA beneficiaries who do not also have a U.S. citizen or LPR child are ineligible for the programs, as well as those parents of U.S. citizens and LPRs who have resided in the U.S. for less than five years.

Expanded Provisional Waiver Program

The executive immigration accountability actions include changes that will expand the 2013 provisional unlawful presence waiver program. The program is intended to allow certain individuals who have been unlawfully present in the U.S. for more than 180 days to apply for a waiver to overcome the reentry bars which could force them to be separated from family members for several years as they wait to qualify for an immigrant visa. Instead of having to leave the country before applying for the waiver, eligible applicants will be able to apply for the waiver "stateside" while in the United States, requiring their departure only when needed to appear for an immigrant visa interview with a consular official abroad.

The 2013 stateside waiver was made available to the immediate relatives of U.S. citizens, including spouses, parents, and children (who were unmarried, at least 17 years of age, and under the age of 21). Under the new executive actions, the program will now also be available to the sons and daughters of U.S. citizens regardless of the son's or daughter's age and to the spouses, sons, and daughters of LPRs.^{xvi} The definition of "extreme hardship" for purposes of qualifying for a waiver will also be clarified to further streamline the process. These changes are expected to minimize the amount of time that families are separated as they wait for approval of their immigrant visas.



End of the Secure Communities Program

The executive immigration accountability actions also include termination of the controversial Secure Communities program. The Secure Communities program requires screening of all individuals booked into U.S. jails for possible immigration violations that can then result in the issuance of a “detainer” for certain individuals, delaying their release until further investigation by immigration authorities. While the original goal of the program was to target “serious” criminals, Department of Homeland Security data reveals that the program has resulted in the deportation of many individuals, including parents, for relatively minor offenses, such as traffic violations. In fact, according to a 2011 analysis by the University of California, Berkeley Law School, 37 percent of individuals arrested through Secure Communities and placed in immigration detention reported being the parent of a U.S. citizen child.^{xvii} While the Secure Communities program will be eventually replaced by another criminal justice screening program called the Priority Enforcement Program (PEP), the new program is expected to discontinue the controversial practice of issuing “detainers” thereby minimizing the unnecessary separation of families.^{xviii}

CONCLUSION: A STEP FORWARD BUT MORE NEEDED FOR IMMIGRANT CHILDREN & FAMILIES

The success of these new executive immigration reforms will be largely determined by the extent to which eligible applicants enroll in the new programs and are able to fully integrate into civic life. It is also important to note that these executive actions only cover about half of the U.S. undocumented population, leaving millions still vulnerable to deportation, and the Administration continues to prioritize the deportation of individuals that have recently entered unlawfully, including children and families fleeing violence from Central America. The new programs also still fall short of providing parents and youth with a path to citizenship or full access to federal safety net programs aimed at promoting the health and well-being of children, such as access to the Children’s Health Insurance Program (CHIP). Thus, the only permanent solution for DACA and DAPA beneficiaries and the broader undocumented immigrant population remains for Congress to pass immigration reform legislation that includes a path to citizenship.

Ultimately, the new executive immigration accountability actions represent a promising step in the right direction for millions of children who have fallen victim to the enforcement-heavy immigration policies of recent years. After years of inaction by Congress to address the broken immigration system by Congress, the status quo of harming children and tearing families apart was simply unacceptable. Given that children of immigrants comprise one quarter of the U.S. child population it is imperative that immigration policies promote their best interests. These new reforms have the potential to significantly improve not only lives of the children and families directly affected, but also the country as whole.



REFERENCES

- ⁱ Department of Homeland Security Fact Sheet. (November 2014). *Fixing Our Broken Immigration System Through Executive Action – Key Facts*. Available at: <http://www.dhs.gov/immigration-action>
- ⁱⁱ Gonzales, R. G. & Bautista-Chavez, A. M. (June 2014). *Two Years and Counting: Assessing the Growing Power of DACA*. Washington, DC: American Immigrant Council. Available at: <https://www.americanprogress.org/issues/immigration/report/2014/11/19/101868/how-daca-has-improved-the-lives-of-undocumented-young-people/>
- ⁱⁱⁱ Ibid.
- ^{iv} Capps, R. & Rosenblum, M. (September 2014). *Executive Action for Unauthorized Immigrants: Estimates of the Populations that Could Receive Relief*. Washington, DC; Migration Policy Institute.
- ^v Department of Homeland Security Fact Sheet. (November 2014). *Fixing Our Broken Immigration System Through Executive Action – Key Facts*. Available at: <http://www.dhs.gov/immigration-action>
- ^{vi} Passel, J. & Cohn, D. (February 2011). *Unauthorized Immigrant Population: National and State Trends, 2010*. Washington, DC: Pew Hispanic Center.
- ^{vii} Passel, J. & Cohn, D. (November 2014). *Unauthorized Immigrant Totals Rise in 7 States, Fall in 14*. Washington, DC: Pew Hispanic Center. Available at: <http://www.pewhispanic.org/2014/11/18/chapter-1-state-unauthorized-immigrant-populations/>
- ^{viii} Ibid.
- ^{ix} Chaudry, A., Capps, R., Pedroza, J. M., Castañeda, R. M., Santos, R. & Scott, M. (February 2010). *Facing Our Future: Children in the Aftermath of Immigration Enforcement*. Washington, DC: Urban Institute.
- ^x Satinsky, S., Hu, A., Heller, J., & Farhang, L. (June 2013). *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families*. Oakland, CA: Human Impact Partners.
- ^{xi} Cervantes, W. & Gonzales, R. G. (October 2013). *The Cost of Inaction: Why Children Can't Wait for Immigration Reform*. Washington, DC: First Focus.
- ^{xii} Satinsky, S., Hu, A., Heller, J., & Farhang, L. (June 2013). *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families*. Oakland, CA: Human Impact Partners.
- ^{xiii} Yoshikawa, H. & Kholoptseva, J. (March 2013). *Unauthorized immigrant Parents and Their Children's Development: A Summary of the Evidence*. Washington, DC: Migration Policy Institute.
- ^{xiv} Satinsky, S., Hu, A., Heller, J., & Farhang, L. (June 2013). *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families*. Oakland, CA: Human Impact Partners.
- ^{xv} Yoshikawa, H. & Kholoptseva, J. (March 2013). *Unauthorized immigrant Parents and Their Children's Development: A Summary of the Evidence*. Washington, DC: Migration Policy Institute.
- ^{xvi} Department of Homeland Security Fact Sheet. (November 2014). *Fixing Our Broken Immigration System Through Executive Action – Key Facts*. Available at: <http://www.dhs.gov/immigration-action>
- ^{xvii} Kolhi, A., Markowitz, P. L., Chavez, L. (October 2011). *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*. Berkeley, CA: The Chief Justice Earl Warren Institute on Law and Social Policy, University of California, Berkeley Law School.
- ^{xviii} Department of Homeland Security Fact Sheet. (November 2014). *Fixing Our Broken Immigration System Through Executive Action – Key Facts*. Available at: <http://www.dhs.gov/immigration-action>