

OVERVIEW OF *U.S. V. TEXAS* AND THE IMPLICATIONS FOR CHILDREN

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In November 2014, President Obama announced a set of immigration executive actions which included the expansion of the 2012 Deferred Action for Childhood Arrivals (DACA+) program as well as the creation of the new Deferred Action for Parents of Americans and Lawful Permanent Residents program (DAPA).¹ Both programs would provide beneficiaries with temporary relief from deportation and permission to work legally in the United States.

Overview of the Case

Shortly after the President's executive actions were announced, Texas and 25 other states filed a lawsuit challenging the new deferred action programs. Just days before the DACA+ program was set to be implemented, a Federal District Court in Brownsville, Texas issued a preliminary injunction suspending the implementation of the new programs. The U.S. Department of Justice filed an appeal to this decision to the U.S. Court of Appeals for the Fifth Circuit, and on November 9, 2015, the Fifth Circuit issued a decision upholding the Texas federal district court order. The Department of Justice then filed a petition to the Supreme Court requesting their review of the case, and in January 2016 the Supreme Court agreed to hear the case this term. On April 18th, the Supreme Court heard oral arguments in the case. On June 23, 2016, the Court ruled 4-4 in a tie vote, meaning the lower court decision remain in effect and the programs will remain temporarily blocked. It is important to note that this lawsuit does *not* impact the original 2012 DACA program, which continues to accept applications for those who qualify.

What is the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) Program?

The DAPA program is a deferred action program that would provide certain undocumented immigrants with a renewable 3-year reprieve from deportation as well as work permits. To qualify, an individual must meet the following requirements:

- Be the parent of U.S. citizen or lawfully permanent resident.
- Physically present in the U.S. on November 20, 2014.
- Have resided continuously in the U.S. since January 1, 2010.
- Pass a background check.

What is the expanded Deferred Action for Childhood Arrivals (DACA+) Program?

The DACA+ program is a deferred action program that would provide certain undocumented immigrants who entered the U.S. as children with a renewable 3-year reprieve from deportation as well as work permits. The program expands eligibility

beyond the requirements established under original 2012 program. To qualify, an individual must meet the following requirements:

- Entered the U.S. prior to turning 16 years old. The expanded program also removes the upper age cap from the original 2012 DACA program.
- Physically present in the U.S. on November 20, 2014.
- Have resided continuously in the U.S. since January 1, 2010. This changes the date of June 15, 2007 from the 2012 program.
- Must be at least 15 years old at the time of application.
- Be enrolled in school or have obtained a high school diploma or general education development (GED) certificate at the time of application.
- Pass a background check.

What is at stake for children?

More than 5 million children, 4.1 million of whom are U.S. citizens, currently live in a mixed-status family with at least one undocumented parent.² Research consistently demonstrates that the loss of a parent to detention or deportation—as well as the constant fear of losing a parent—harms a child’s physical and mental health, economic security, and ability to do well in school.³ Furthermore, research also shows that a parent’s undocumented status can impact a child’s development as a result of their parents’ limited employment options, lack of access to critical safety net programs and income supports, as well as the additional stressors associated with lack of legal status.⁴

Approximately 3.3 million parents of minor U.S. citizen children could apply for the DAPA program, lifting the constant threat of deportation from their families and boosting their family income. It is estimated that implementation of DAPA could increase household incomes by as much as ten percent, lifting millions of families out of poverty.⁵ In addition, implementation of the DACA+ program would open educational and employment opportunities to more young adults, enabling them to pursue a higher education or finally use their degree.⁶

In addition to keeping families together and providing children with peace of mind, these programs would help benefit all Americans. In fact, it is estimated that DACA+ and DAPA could increase the national GDP by \$230 billion over ten years and help reduce the federal deficit by as much as \$25 billion by 2024.⁷

What happens now?

The Supreme Court’s split decision in this case means that the DACA+ and DAPA programs will remain temporarily blocked nationwide. However, because the Supreme Court did not reach a majority decision in this case, its ruling does not set Supreme Court precedent on the legality of the programs. It is still possible for the U.S. Department of Justice to request the Supreme Court to rehear the case after a ninth justice has been confirmed. In the meantime, the 2012 DACA program, which was not affected by this decision, will continue to be implemented.

¹ USCIS. Executive Actions on Immigration. Available at: <https://www.uscis.gov/immigrationaction>

² Capps, R., Fix, M., & Zong, J. (2016). *A Profile of U.S. Children with Unauthorized Immigrant Parents*. Washington, DC: Migration Policy Institute.

³ Human Impact Partners. (June 2013). *Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families*. Oakland, CA.

⁴ Yoshikawa, H. (2012). *Immigrants Raising Citizens: Undocumented Parents and Their Young Children*. New York, NY: Russell Sage Foundation.

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- ⁵ Capps, R., Koball, H., Bachmeier, J.D., Ruiz Soto, A.G., Zong, J., & Gelatt, J. *Deferred Action for Unauthorized Immigrant Parents: Analysis of DAPA's Potential Effects on Families and Children*. Washington, DC: Migration Policy Institute.
- ⁶ Gonzalez, R., Terriquez, V., & Ruszczyk, S. P. (2014). *Becoming DACAmented: Assessing the Short-Term Benefits of Deferred Action for Childhood Arrivals*. *American Behavioral Scientist* 1852, pp. 28-29.
- ⁷ Mathema, S. (2016). *Assessing the Economic Impact of Granting Deferred Action Through DACA and DAPA*. Washington, DC: Center for American Progress.