



# President Obama is facing heavy pressure from both sides of the immigration fight, as he nears a self-imposed deadline for likely changes to his deportation policy.

By Mike Lillis - 08/26/14 06:25 PM EDT



President Obama is facing heavy pressure from both sides of the immigration fight, as he nears a self-imposed deadline for likely changes to his deportation policy.

Immigration reform advocates, including many Democrats on Capitol Hill, argue that Obama has both the legal authority and a moral obligation to use his executive pen to halt deportations for millions of immigrants living in the country illegally.

Critics of that approach, including most Republicans, say the administration overstepped its powers, when it adopted the Deferred Action for Childhood Arrivals program (DACA) in 2012, which allows certain immigrants who came to the United States illegally as children to stay in the country and work.

Legal scholars promoting broad changes to Obama's deportation policy on Tuesday set out what they said was the legal basis for new executive action, including an expansion of the DACA to cover thousands — perhaps millions — more illegal immigrants.

Stephen Legomsky, former chief counsel of at the Homeland Security Department's Citizenship and Immigration Services branch, said "there's no serious legal question" about Obama's authority to use deferred action as a method of prioritizing resources. In fact, Congress has given the president little choice.

"When Congress knowingly gives DHS only enough resources to go after a tiny percentage of the undocumented population, then obviously Congress intended for the administration to formulate priorities. It has no choice," Legomsky, now a professor at Washington University School of Law, said Tuesday. "That's what deferred action does. It prioritizes finite resources."

The legal experts said Obama also has plenty of authority to provide more work opportunities to those waiting in line for green cards; to make it easier for foreign students to remain in the United States and work after getting their degrees; and to expand the "parole in place" program, allowing relatives of U.S. citizens in the country illegally to seek permanent residency without having to leave the country first.

"Discretion, the president's ability to make decisions based on enforcement priorities, is all over the immigration statute. In fact, you wouldn't be able to enforce the immigration statute without the ability to decide what are our priorities," David Leopold, former head of the American Immigration Lawyers Association, said Tuesday. "There's really no legal argument, no reasonable legal argument, against it."

Many conservatives have a vastly different view, which they're also trumpeting ahead of Obama's potential policy changes.

Sen. Jeff Sessions (R-Ala.) said this week that expanding the DACA would be "a security nightmare" putting the country at an increased risk of terrorist attacks; Sen. Rand Paul (R-Ky.) said the DACA has already done enough damage by creating "chaos" at the southern border, where tens of thousands of unaccompanied migrant kids have flocked this summer; and Sen. Marco Rubio (R-Fla.) sent a letter to Obama Tuesday warning that any further unilateral action would kill the possibility of a bipartisan immigration reform deal emerging from Congress next year.

"I know you are receiving tremendous political pressure from certain activists to grant another unilateral, temporary and uncertain legal status to millions of additional undocumented immigrants," Rubio wrote. "But to do so, without first taking any serious steps to address the border or protect American workers, will increase the perception of ambiguity in our laws, incentivize more people to immigrate here illegally, and significantly set back the prospects of real reform."

Democrats and advocates are optimistic the administration will take significant steps in the absence of Republican action on immigration. But the administration, they say, has kept the decision very close to the vest.

"Nobody seems to know either the what or the when," a Democratic aide said Tuesday.

That uncertainty hasn't prevented some Democrats from planning for sweeping administrative changes.

Rep. Luis Gutiérrez (D-Ill.), Congress's most vocal advocate for comprehensive immigration reform, is confident enough that the administration will go big that he's gathering Wednesday in Chicago with Mayor Rahm Emanuel (D) and a group of between 40 and 50 civic leaders to build a working group tasked with managing whatever changes are coming.

"We want to get as many as we can out of the vicious cycle of deportation," Gutiérrez told MSNBC Monday. "We're getting ready."

The DHS did not respond Tuesday to questions about the timing of the decision.

**TAGS: Barack Obama, immigration, Illegal immigration, Immigration reform**

The Hill 1625 K Street, NW Suite 900 Washington DC 20006 | 202-628-8500 tel | 202-628-8503 fax  
The contents of this site are ©2014 Capitol Hill Publishing Corp., a subsidiary of News Communications, Inc.