

**Economic Policy**

# Your complete guide to Obama's immigration executive action

November 20, 2014   More than **11 years ago**



By Max Ehrenfreund

President Obama unveiled Thursday a major executive action on immigration policy, offering temporary legal status to millions of illegal immigrants, along with an indefinite reprieve from deportation.

There are roughly 11 million undocumented immigrants in the United States, and political leaders of both parties agree the current system is broken and needs fixing. Yet Obama's action has outraged Republicans in Congress, who say the president doesn't have the authority to delay deportations for such a large class of people without legislation.

This post contains what we know about the executive action-- and other key questions and answers about immigration policy in the United States. If you have a specific question, we'll try to answer it ([@wonkblog](#)).

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### **What will Obama's executive action do?**

The executive action will have two key components:

1. It would offer a legal reprieve to the undocumented parents of U.S. citizens and permanent residents who've resided in the country for at least five years. This would remove the constant threat of deportation. Many could also receive work permits.
  2. It would expand the 2012 Deferred Action for Childhood Arrivals (DACA) program that allowed young immigrants, under 30 years old, who arrived as children to apply for a deportation deferral and who are now here legally. Immigrants older than 30 now qualify, as do more recent arrivals.
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People in both groups will have to reapply every three years. The executive action will also include:

- A program to facilitate visas for people who invest in the United States and those who pursue science, technology, engineering and math degrees
- Modifying federal immigrant detention procedures
- Adding resources to strengthen security at the border

But notably, the action will not:

- Extend protections to hundreds of thousands of parents of young immigrants who participated in the DACA program -- a group totaling 671,000 people.
  - Expand visas for migrant farm workers. According to The Times, "farm workers, for example, will not be singled out for protections because of concerns that it was difficult to justify legally treating them differently from undocumented workers in other jobs, like hotel clerks, day laborers and construction workers."
  - Expand the existing H-1B visa program for highly skilled foreigners
  - Offer access to the [Affordable Care Act](#) for newly protected immigrants
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For more on what the executive action will do, click [here](#).

### **How many people actually would be covered by the action?**

The Migration Policy Institute [came out](#) with new estimates Wednesday that suggests that about 4 million undocumented immigrants would be directly affected by the action. According to the group, there are 3.71 million undocumented immigrants who have children who are U.S. citizens or legal permanent residents.

Then, 290,000 new people would join the 1.2 million young immigrants eligible for deferred deportation under the administration's 2012 program.

### **Back up a second. Where did these undocumented immigrants come from, anyway?**

The number of undocumented immigrants in the country rose steadily from about 3.5 million in 1990 to 12.2 million in 2007, according to [the Pew Research Center](#). Since then, the number has declined to about 11.3 million. There are now fewer immigrants entering the United States from Mexico than [leaving it](#), often because [they miss their families](#) at home.

The typical undocumented immigrant has now been living in the United States for [nearly 13 years](#). More than half of undocumented immigrants are from Mexico, according to the [Department of Homeland Security](#). The rest are largely from other countries in Latin America and Asia.

Meanwhile, the Obama administration has been deporting more and more people. Deportations began to increase during the President Bush's second term, and federal law enforcement deported more than 400,000 in 2012, [the most ever](#) in one year.

Another 369,000 were deported last year. At that rate, it would take more than 30 years to deport all 11.3 million undocumented immigrants currently living in the United States, which is part of the reason that lawmakers and the president say the current system is impractical.

The most recent attempt at reform was [a bill](#) that the Senate passed with strong support in both parties last year. The House has never considered it, however, which Obama says is part of the justification for his acting unilaterally.

### **What is the demographic make up of the undocumented population in the United States?**

The Migration Policy Institute has [detailed statistical tables](#) on the demographic breakdown of the U.S. undocumented population. Most illegal immigrants are relatively young in the United States, between 16 and 44. There are shy of a million undocumented immigrants under 16, and just a bit less over 55.

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A majority of illegal immigrants have resided in the United States for under 10 years, with the largest group residing in the U.S. between 5 and 9 years. By a slim margin, a majority of undocumented immigrants do not have a high school diploma or equivalent. About 13 percent have a college degree or higher. As noted above, about 3.5 million undocumented persons have a U.S. citizen child. Almost double that number do not have a child.

### **Can Obama just do it himself?**

Obama has never claimed an ability to offer a path to citizenship for illegal immigrants. But he does claim a more limited power to act.

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Whether he actually has that power is disputed. Part of Obama's legal argument relies on the widely accepted principle that law enforcement officers are responsible for choosing where to focus their efforts. The cops don't stop every car that is traveling 66 miles per hour on the interstate. District attorneys might choose to drop charges against someone who has committed a minor infraction if they're busy with a case against a mob boss.

It's a concept known as prosecutorial discretion.

Conservatives, though, argue that issuing a blanket reprieve for millions of immigrants isn't exercising prosecutorial discretion -- it's rewriting the law. It's a tricky distinction, in any case.

The Obama administration will also likely claim that the executive action is based on existing immigration law as explicitly written.

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President Reagan and later President George H.W. Bush relied on this explicit authority when they unilaterally exempted roughly 1.5 million undocumented immigrants from deportation after passing a law granting amnesty to millions more. The action were not especially controversial at the time.

These questions ultimately may bear little weight on whether Obama's action is actually carried out. The only way that the courts could stop Obama is if he were sued. And while House Republicans have contemplated suing him, legal experts say a challenge would be how they would assert standing in court, given that they haven't been harmed in any specific way.

One possibility is that states such as Texas could sue the president, arguing that they will have to pay for education and health care for the newly legal undocumented immigrant population.

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### **What exactly is an executive action?**

While this is technically an executive action, here's a video that explains what an executive order is.

### **Will the order mean that undocumented immigrants get Obamacare?**

No. Although the federal government does pay for health care for many undocumented immigrants and has for years, they won't receive subsidies through Obamacare under this executive action. [Jason Millman](#) has more.

### **How will this executive action affect the economy?**

It's probably too early to say anything about this particular order, but as Wonkblog has written previously, comprehensive immigration reform generally would benefit the economy.

It would help [stabilize the federal debt](#) by encouraging more younger workers to come to the country, who will pay taxes without drawing on Social Security and Medicare for many years. It would [raise the wages](#) of workers already in the country. Leaders in both parties recognize these facts. "Immigration reform will help our economy," House Speaker John Boehner (R-Ohio) [said](#) in September.

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## **What do Americans think of all this?**

Most people do think undocumented immigrants should be allowed to stay and should eventually receive citizenship. Public support declined during the summer when child migrants were overwhelming detention facilities, but has since recovered.

A poll by The Wall Street Journal-NBC News released Wednesday found that 48 percent of respondents opposed executive action on immigration, a plurality. A USA Today poll last week found that, by a margin of 46 percent to 42 percent, Americans think Obama should wait for Republicans to act on immigration in Congress act rather than issue an order now on his own. But the poll didn't consider the possibility that Republicans might not act.

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In another recent poll by The Washington Post-ABC News, respondents were asked whether Obama should take action on his own if Congress does not act, and a majority said he should.

In other words, the answer depends on how you ask the question.

## **So, what happens now?**

Obama is scheduled to announce the order Thursday night on prime time television, but Republicans will probably look for a way to retaliate. One option would for them to shut down the government next

month, but there are less confrontational approaches as well once they take control of the Senate next year, as [Ramesh Ponnuru](#) describes.

For example, they could make rescinding the order a condition of funding the Border Patrol or some other crucial agency. This is essentially the strategy that Sen. Ted Cruz (R-Tex.) endorsed in a column in [Politico Magazine](#) Wednesday. Cruz also says Republicans should not consider any presidential nominations except those for "vital national security positions."

In any case, this executive order likely isn't the final word on immigration policy. Undocumented immigrants will have to keep waiting to learn if any protection they receive is permanent.

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