

Immigration hard-liners try to force Trump's hand on DACA

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As a presidential candidate, Donald Trump promised to “immediately terminate” two Obama-era immigration programs that granted temporary deportation relief to immigrants who were in the country illegally, saying they “defied federal law and the Constitution.”

Last month, Trump did away with one of those programs: Deferred Action for Parents of Americans, or DAPA, which granted a two-year protection from deportation to unauthorized immigrants who were parents of U.S. citizens or lawful residents.

But former President Barack Obama’s original 2012 Deferred Action for Childhood Arrivals program, also known as DACA, which shields unauthorized immigrants who came to the country as children and gives them work permits, remains intact. That’s to the chagrin of many of Trump’s most fervent supporters, who have criticized the president for waffling on the issue.

“We are upset that it has remained. This was very clearly a pledge,” said Dave Ray, communications director for the Federation for American Immigration Reform, which advocates for a reduction in immigration. “This was the crown jewel of illegal executive orders — amnesty for illegal aliens. It doesn’t get any more blatant than that.”

Last week, a 10-state coalition led by Texas Attorney General Ken Paxton sent a letter to U.S. Attorney General Jeff Sessions threatening to sue the federal government over DACA if Trump does not rescind it by September. That increased the pressure on a president who campaigned on a tough-on-immigration platform to shutter what strict-enforcement advocates see as the most blatant flaunting of immigration law by the Obama administration.

Now, Trump, who backpedaled on his promise to nix the program immediately and told potential recipients to “rest easy,” has little more than two months to fulfill one of his fundamental campaign promises or continue the program and face a legal battle over a program he has called unconstitutional, which would lead to almost certain backlash from his base.

“This is a question that everyone is asking,” said Jessica Vaughan, policy director for the Center for Immigration Studies, which advocates for strict immigration enforcement. “What is the president’s plan on DACA?”

Trump supporters, many of whom backed him because of his promises to crack down on illegal immigration, are baffled by his inaction on the immigration program.

“This was a promise made by President Trump in a clear and unambiguous way,” Ray said. “It’s the one real soft spot that still remains in his immigration enforcement portfolio, which has been exemplary.”

On other immigration issues like a border wall or a halt on travel and immigration from countries with ties to terrorism, Trump has shown strong initiative, if only relative success. But on DACA, immigration enforcement advocates say, Trump has been inexplicably reserved.

“It’s sticking out like a sore thumb,” said Ray, whose organization gave Trump the highest rating it’s ever given a president on immigration.

Even more frustrating for immigration hard-liners, Trump’s administration has not only continued renewing applications for people already participating, it’s also continued processing new applications.

In the first three months of this year, U.S. Citizenship and Immigration Services renewed 107,524 applications for the program. It also granted protection to 17,275 new applicants for the first time. Trump took office in late January, but the processing of applications has continued into his administration.

“There’s no need to continue a program that was improper,” Vaughan said. “The president could get rid of it with the stroke of a pen.”

For whatever reason, Trump has let the program remain. But Paxton’s letter has put the president on notice, forcing him to make a decision on an issue that’s important to his immigration hard-line base.

“They’re absolutely exerting pressure,” said Victoria DeFrancesco Soto, a political science professor at the University of Texas. “Trump and DACA, it was always a gray area. One day he’d say he wouldn’t touch (them); the next, everyone is gone. The pressure from the base will be felt.”

And there are politics involved. Some Beltway insiders conjectured that Trump was holding on to the program as a bargaining chip to offer Democrats on other legislative actions important to him.

Paxton’s threat has now thrown a wrench in those possibilities.

“It definitely complicates any plans he had to keep it in place or to try to use it as leverage against Democrats to get concessions he is looking for on immigration,” said David Bier, an immigration analyst for the Cato Institute, a libertarian think tank in Washington. “Congress isn’t going to be in session all throughout August, so there’s not much time to consider this and incorporate it into a strategy.”

Even if there were time, it would be a politically risky move.

“I think the president’s failure to take action on DACA could become a serious problem for the White House,” Vaughan said. “Trump supporters were willing to give him time to take action, but that time seems to have expired.”

Since the program's implementation in 2012, about 800,000 unauthorized immigrants have received deportation relief.

Now, those people and others who planned on applying are in the unusual position of counting on Trump to protect a program that shields people in the country illegally from deportation.

"I don't know what he's going to do," said Adriana Aguirre, a 20-year-old deferred action recipient in Austin. "We don't know, so we're preparing for everything."

Aguirre was 1 year old when her parents brought her to the U.S. from Guerrero, Mexico. With the help of the program, she's been able to attend the University of Texas and intern at nonprofit law firms and labor groups. She hopes to be a lawyer but is now living in uncertainty.

Immigrant rights groups are preparing to lobby lawmakers to stand up for the deferred action program.

"There's been politicians from both sides of the aisle who have said: 'We like DACA, it's a good program. It should stay,'" said Julieta Garibay, the co-founder and campaign director of United We Dream, an immigrant youth group. "This is a moment where we're demanding that they actually take bold actions. We don't need tweets, we need bold actions."

Even if Trump decided to keep the program in place, his Justice Department would enter into a yearslong legal battle that would probably return to the U.S. Supreme Court, where an evenly divided bench could not break a deadlock on DAPA last year and allowed a lower court ruling blocking the program to stand. This time around, conservative judges would have a 5-4 advantage after Trump's appointment of Neil Gorsuch in April.

"If Trump doesn't stop it and it gains momentum in the courts ... it doesn't look great," said Frank Sharry, executive director of America's Voice, which advocates for immigrants rights and immigration reform with a path to citizenship. "(But) it's still ultimately the president's decision. If DACA is ended, Trump will be held responsible."

DeFrancesco Soto said Trump is likely to bow to his base of immigration hard-liners.

"I wouldn't be surprised if he ends up caving and letting it phase out," she said. "That's a very powerful base, and the base is all he's got. Independents aren't with him, moderate Republicans aren't with him, and he has no Democrats. Trump is not one to go back on his word. I think he'd let it die a quiet death."