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While Dreamers Are in Purgatory, the GOP Is in Hell

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For months, Donald Trump seemed genuinely torn over what to do about the Deferred Action for Childhood Arrivals (DACA) program, the Obama-era initiative that shields immigrants from deportation if they were brought to the U.S. illegally as kids. On the campaign trail, Trump vowed to end DACA, but he's since softened his tone, saying the decision was one of the most difficult he faced and that he would show "great heart" toward the roughly 800,000 so-called Dreamers protected by DACA.

In June a group of Republican state attorneys general, led by Ken Paxton of Texas, decided to force the president's hand and threatened to sue if he didn't end DACA by Sept. 5. Heading into the Labor Day weekend, as reports circulated that Trump would soon rescind the program, the president still struck a supportive tone. "We love the Dreamers!" he told reporters on Sept. 1. Four days later the White House finally said it would rescind DACA and give Congress six months to come up with a solution to the Dreamers' plight. Trump also had Attorney General Jeff Sessions take the stage. In a 10-minute statement, Sessions leveled a blistering critique of DACA, condemning it not only as an illegal overreach by President Barack Obama but as bad policy, saying it denied jobs to hundreds of thousands of Americans, contributed to a surge of unaccompanied minors to the border, and created "terrible humanitarian consequences."

By making the attorney general, a hard-liner on immigration, the face of the administration's position on DACA, Trump exacerbated a major divide within the Republican Party and, intentionally or not, probably made it harder for anti-immigrant conservatives to find middle ground with the pro-business wing of the party, which would prefer to extend DACA's protections through legislation. "I was a lot more optimistic about Congress doing a deal before Sessions started talking," says David Bier, an immigration policy analyst at the Cato Institute. "Sessions totally boxed in Congress by condemning it as he did."

Trump made his decision to rescind DACA against the advice of senior Republican leaders such as Senator Orrin Hatch of Utah, who says he called the president during the week before Labor Day to urge him to preserve the program. Nor did Trump consult much with business leaders or allies outside the White House, according to five people familiar with the matter. He instead focused on recommendations from officials inside the Homeland Security and Justice departments, one of the people said.

DACA threatens to lay bare the civil war over immigration that's been raging inside the GOP for well over a decade. In 2007 a comprehensive immigration bill failed to make it to a vote in the Senate largely because of opposition from Republicans, including Sessions. In 2010, Republicans in Congress overwhelmingly voted against the Dream Act that would have granted citizenship to the same category of immigrants. After the 2012 presidential campaign, an

“autopsy” conducted by the Republican National Committee concluded that the GOP needed to do much more to improve its standing among Latinos and immigrants. Trump’s victory last year—with his anti-immigrant appeal to the nativist wing of the party—ended any notion that the party had softened its approach.








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The divide over immigration was captured in the hours after Sessions’s speech by the comments of two Republican members of Congress. Urging passage of a bill protecting Dreamers, South Carolina Senator Lindsey Graham called the issue a “defining moment” for his party at a news conference alongside the Senate’s No. 2 Democrat, Dick Durbin of Illinois. By contrast, Representative Steve King of Iowa, a leader of the anti-immigration flank, said any delay to ending DACA that allowed the GOP to codify its protections would be tantamount to “Republican suicide.”

A number of vulnerable Republican senators and House members could see their 2018 reelection campaigns threatened by a protracted debate over the program. Jeff Flake of Arizona and Dean Heller of Nevada, the two GOP senators most at risk of losing their seats, have sizable Latino populations in their states and support preserving the protections. Republican House members with similar demographics in their districts have taken the same pro-DACA position, including Mike Coffman of Colorado, Carlos Curbelo of Florida, and Jeff Denham of California. Flake and Heller face Republican primary opponents who’re sticking close to Trump on immigration issues.

Dream On

The percentage of Dreamers living in the nine states that threatened to sue the Trump administration if it did not begin to phase out DACA by Sept. 5.

	Share	Rank
Texas	 14.77%	2
Kansas	 0.78	25
South Carolina	 0.74	27
Arkansas	 0.59	31
Alabama	 0.5	32
Nebraska	 0.4	34
Idaho	 0.37	35
Louisiana	0.03	37
West Virginia	0.02	51

Data: U.S. Department of Homeland Security; Graphic by Bloomberg Businessweek

DACA will likely drop to the bottom of GOP leaders’ list of priorities as they face a jam-packed fall schedule of legislative debates. That schedule got a bit lighter on Sept. 6, as Trump sided with congressional Democrats on a tentative agreement to fund the government and lift the debt

ceiling for three months as part of a Hurricane Harvey relief bill. That pushes further budget and debt-ceiling decisions to the end of the year, when Republicans also want to rewrite the U.S. tax code. Giving priority to DACA would likely anger their base.

“If they pass a straight-up Dream amnesty, they will go into the elections having failed to repeal Obamacare but having passed amnesty,” says Mark Krikorian, who runs the Center for Immigration Studies, a group that favors restricting immigration. Krikorian says he’s come away from conversations with administration officials with the impression that the White House has “no legislative strategy” to fix the immigration system and instead has tossed the ball in Congress’s court without guidance. “It’s the same mistake they made on Obamacare.”

Texas Republican Congressman Lamar Smith, the former chairman of the House Judiciary Committee, which oversees immigration policy, insists there will be no discussion about helping DACA recipients without first addressing the wall that Trump wants to build. “They can certainly be part of the discussion, but not until we secure the border.”

Lawsuits to try to save DACA are coming. Democratic attorneys general for New York, Massachusetts, and 14 other states filed a joint suit on Sept. 6. And California is ready to sue on behalf of its 425,000 Dreamers. DACA litigation could win in federal court if plaintiffs land a favorable judge who temporarily reinstates the program. They may even win an appeal if the case is filed in a similarly supportive district such as the Ninth Circuit, which has repeatedly reinforced lower-court rulings in the Trump travel-ban litigation. But any chance of DACA winning permanent legal protection would likely end if it wound up in front of the Supreme Court, where conservatives hold a 5-4 majority.

Trump still doesn’t appear to have made up his mind. On the evening of Sept. 5, after a day of debate, he added more confusion to the situation by tweeting that if Congress doesn’t “legalize DACA,” he would “revisit this issue.” No one is sure what he means.