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## **Paxton threatens to sue over immigration program if Trump does not rescind it**

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Texas Attorney General Ken Paxton and a 10-state coalition have threatened to sue the federal government over an Obama-era program that protects unauthorized immigrants if it is not rescinded by September.

"We respectfully request that the Secretary of Homeland Security phase out the DACA program," Paxton said in a letter to U.S. Attorney General Jeff Sessions on Thursday, using the acronym for the program. "Just like DAPA, DACA unilaterally confers eligibility for work authorization and lawful presence without any statutory authorization from Congress."

The letter was signed by officials from Alabama, Arkansas, Idaho, Kansas, Louisiana, Nebraska, South Carolina, Tennessee and West Virginia.

The Deferred Action for Childhood Arrivals program, or DACA, was created by President Barack Obama in 2012. It gives unauthorized immigrants who came to the country as children a temporary, two-year relief from deportation and allows them to work legally in the country.

Nearly 800,000 people have been approved for the program since its implementation, according to the U.S. Citizenship and Immigration Services.

In 2014, the Obama administration attempted to expand the program and extend the protections to unauthorized immigrants who were parents of U.S. citizens or legal permanent residents.

Federal district courts blocked that measure. In a major blow to Obama last year, the U.S. Supreme Court deadlocked 4-4 on the issue, allowing the decisions by lower courts to stand and preventing the expanded programs from being implemented.

This month, the Trump administration rescinded parts of the expansion of the children's program and the one for unauthorized immigrant parents, commonly referred to as DAPA.

But the initial 2012 program remains intact. In his letter, Paxton gave the federal government a legal ultimatum.

"If, by September 5, 2017, the Executive Branch agrees to rescind the June 15, 2012 DACA memorandum and not to renew or issue any new DACA or Expanded DACA permits in the

future, then the plaintiffs that successfully challenged DAPA and Expanded DACA will voluntarily dismiss their lawsuit currently pending in the Southern District of Texas," he wrote. "Otherwise, the complaint in that case will be amended to challenge both the DACA program and the remaining Expanded DACA permits."

Paxton said this would not require Trump to immediately rescind any permits that have already been issued, change immigration enforcement priorities or require the removal of any unauthorized immigrants.

Advocates for strict immigration enforcement and many Trump supporters have been disappointed by his unwillingness to nix the program despite campaign promises that he would. Trump backpedaled on those promises after taking office, telling unauthorized immigrants who came to the country as children that they shouldn't worry and that he had a "big heart."

"At the very least, people expected that he would allow the program to lapse, and instead he continues to renew them and is issuing DACA deferments to new applicants," said Ira Mehlman, media director for the Federation for American Immigration Reform, which advocates for reducing immigration.

Paxton's ultimatum came as welcome news for Mehlman and other groups like his.

"He's putting the White House on notice," Mehlman said. "He's saying, 'We don't want to go through this despite you saying that it was unconstitutional, but we may have to seek a judicial opinion saying it was unconstitutional.'"

Tom Jawetz, the vice president for immigration policy at the left-leaning Center for American Progress, said he was angry and disappointed by an "unwise and inhumane attack on young people."

He said the hundreds of thousands of people who benefited from DACA have gone on to support their communities.

"The idea that we would in the next three months phase out DACA and return nearly a million people to undocumented status is unconscionable," he said.

The Mexican American Legal Defense and Education Fund urged Trump "not to cave in to the toothless threats in today's Texas letter."

"MALDEF condemns in the strongest terms each of the state officials who joined in threatening the federal administration to repeal DACA. The signatories have each etched their names in ignominy throughout all of future history," Thomas Saenz, the group's president, said in a news release. "Their evident xenophobia is not remotely consistent with the trajectory of our nation's history and future progress. Their political careers and each of their states will suffer from their mean-spirited stupidity."

Saenz said he would move to "dismiss the case as moot and not appropriate for the threatened expansion."

David Bier, an immigration policy analyst with the Cato Institute, said he was surprised there hadn't been a legal attempt to challenge the program before.

"I was shocked it didn't happen in 2012, shocked again when they challenged the DAPA orders but didn't try to challenge DACA at the same time and — once they got the decision — shocked why they didn't proceed immediately to challenge DACA as well," Bier said. "They can pretty much hand-select the same judge and same circuit court and really expect to see it play out in the exact same manner as it did in 2015 and 2016."

Mehlman offered an answer. In April, Congress approved Trump's U.S. Supreme Court nominee, Neil Gorsuch, giving conservatives an edge.

"Now that Gorsuch is on the bench," Mehlman said, "it would likely be a 5-4 decision."