

IMMIGRATION



DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA). President Trump last year rescinded President Obama’s Executive Order creating the DACA program. He simultaneously called upon Congress to take action to protect the persons with DACA status. The Administration will not seek removal of DACA recipients until March 5, 2018, giving Congress an opportunity to address the issue with legislation. DACA recipients, often referred to as Dreamers, arrived in the United States as children without documents.

Dreamers have overwhelming popular support. While they have greater support among Congressional Democrats, a significant number of Republican Members have publicly expressed their support or have sponsored legislation protecting the Dreamers. For most Republicans, however, protection for Dreamers must be paired with provisions that strengthen border security, address interior enforcement, and some wish to restrict legal family immigration. President Trump has also spoken of eliminating the diversity lottery visa. Democrats are seeking to limit the extent of these changes.

Some Democrats have called for opposition to any spending deal which does not afford protection for the Dreamers. Whether a deal can be reached between the President and his Republican allies and Congressional Democrats by January 19 remains to be seen. Negotiations have intensified following a meeting between the President and a bipartisan group of legislators this week, which have improved the prospects for a deal.

TEMPORARY PROTECTED STATUS. Congress created Temporary Protected Status (TPS) in 1990. Under the TPS program, aliens living in the United States at a time when conditions in their home countries render their return too difficult or unsafe are authorized temporarily both to remain in the U.S. and to work. Their status is renewable for as long as 18 months at a time.

The decision to grant or renew TPS for any particular group rests with the Secretary of the Department of Homeland Security (DHS). On November 6, 2017, the Acting Secretary of DHS deferred a decision on the renewal of approximately 57,000 Honduran TPS holders. This deferral automatically extended their stay under TPS for six months, until July 5, 2018. On November 20, 2017 the Acting Secretary, however, declined to renew the TPS of approximately 50,000 Haitians, giving them 18 months, until July 2019, to leave the U.S.. This week, the Secretary of DHS announced that the TPS for around 200,000 Salvadorans will be allowed to expire in September 2019.

Several bills have been introduced in Congress to extend protection for TPS holders and the Democratic leadership, as well as a number of Congressional Republicans, can be expected to press the issue in this Session.

H1 B VISAS. The H1 B visa is utilized for skilled foreign workers. The “Protect and Grow America Act,” sponsored by Congressman Darrell Issa (R-Cal) is aimed at “tightening” requirements for use of the visa. Critics of the H1 B program claim it permits companies to obtain cheaper foreign labor and displace American workers. It is believed this bill will deal a significant blow to outsourcing companies that use the visa. The bill had strong bipartisan support when it passed the House Judiciary Committee by voice vote

in November. It awaits full House action but the ultimate disposition of legislation addressing H1 B visas is uncertain. The Trump Administration is considering regulatory changes to the program as well.

EB 5 VISAS. The EB 5 program provides 10,000 visas a year, ultimately leading to citizenship, for foreigners whose investments in economic projects create at least 10 jobs for Americans. A portion of the visas are intended under the statute for use in rural and high unemployment areas. Critics claim that developers and others have abused the program to the detriment of these areas. The program needs to be reauthorized by January 19, 2018. While there is no doubt that the program will be reauthorized, it remains to be seen what changes, if any, are made to the program. A final DHS regulation which would undertake some reform of the program is pending approval in the Trump Administration.

OTHER PENDING ISSUES. In October, The House Judiciary Committee passed the Legal Workforce Act, providing for an e-verify system in the workplace. At the same time, it also passed, by a single vote, the Agricultural Guestworker Act. The fate of these measures remains uncertain.

FOR QUESTIONS OR MORE INFORMATION CONTACT:

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