



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

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Obama Ignores Constitution, Voters, and Midterms to Expand Executive Amnesty

After years of publicly stating that he lacks the constitutional authority to grant amnesty to millions of illegal aliens through executive action, President Obama did just that on Nov. 20. In an address from the White House, and one the following day at a Las Vegas high school, the president announced plans to grant deferred action and work authorization, or parole, to an estimated 5 million illegal aliens. Nearly all other illegal aliens

in the United States will be exempted from immigration enforcement actions, according to an accompanying policy memo issued by the Department of Homeland Security.

Under the president's plan, illegal aliens who have a son or daughter who is a U.S. citizen or a legal permanent resident, and who resided here since 2010, will be eligible for three-year temporary legal status. The executive amnesty also expands the 2012 Deferred Action for

CONTINUED ON PAGE 2

Taking It to the Courts: Twenty-Four States Sue to Halt Amnesty

The governors of nearly half the states agree with President Obama – at least with the president who up until early 2014 contended that he lacked the constitutional authority to grant amnesty to millions of illegal aliens through executive action. Those governors filed suit in early December against the Department of Homeland Security, arguing that the president's actions are unconstitutional and violate federal law.

The 75-page complaint, filed in federal court in the Southern District of Texas, argues that governors have legal standing to sue because their states will be responsible for billions of dollars of education, health care, law enforcement, and other costs related to the president's plan to grant lawful presence to millions of illegal aliens.

FAIR is working with members of Congress to block the president's unconstitutional action.

CONTINUED ON PAGE 3

PRESIDENT TAKES EXECUTIVE ACTION *continued*

Childhood Arrivals (DACA) amnesty, eliminating the requirement that applicants were under the age of 31 as of June 15, 2012, and reducing the number of years of required residence in the U.S. by two and a half years. Still other illegal aliens will be granted parole in place (a status for which there is no statutory authority), while some foreign nationals living outside the U.S. will be paroled into the country.

All beneficiaries of the Obama amnesty will be granted authorization to work legally in the U.S., allowing them to compete for virtually every available U.S. job. Deferred action and parole beneficiaries will also be immediately eligible for a broad range of public benefit programs and tax credits, according to analysis conducted by FAIR.

While an estimated 5 million illegal aliens are slated to receive deferred action and work authorization under the president's program, a series of memos issued by DHS provides protection to nearly all the remaining illegal aliens in the country. "Under this revised policy, those who entered ille-

gally prior to January 1, 2014, who never disobeyed a prior order of removal, and were never convicted of a serious offense, will not be priorities for removal," states the DHS memo. Except under extraordinary circumstances, all illegal aliens who have lived here for more than one year are assured they will not be deported.

It is important to remember that executive amnesty is not a fait accompli. Congress has the ability to block deferred action and work authorization by cutting off funding.

An estimated 900,000 illegal aliens who had deportation orders issued prior to January 1, 2014, will also no longer be considered priorities for removal.

In his announcement, President Obama attempted to justify this sweeping unlegislated overhaul of U.S. immigration policy as a means of freeing up resources to carry out enforcement against violent criminals and others who might pose a danger to the American public. But even some criminal aliens will receive protection under the policy changes announced. A memo signed by DHS Secretary Jeh Johnson announced tersely that, "The Secure Communities program, as we know it, will be discontinued."

Secure Communities has been a valuable tool in identifying criminal aliens for removal. The majority of criminal aliens who are deported

first come to the attention of Immigration and Customs Enforcement (ICE) when they are arrested and booked for other crimes by state and local police. Secure Communities will be replaced by a much more limited Priority Enforcement Program (PEP), which will focus on removing illegal aliens who have been convicted of a short list of serious or violent felonies. "[U]nless the alien poses a demonstrable risk to national security, enforcement actions through the new program will only be taken against aliens who are convicted of specifically enumerated crimes," Johnson states in his memo.

It is important to remember that executive amnesty is not a fait accompli. In the coming weeks, FAIR will be working to mobilize overwhelming opposition to the administration's unlegislated amnesty program. Public pressure will be necessary to force Congress to respond in a meaningful way to prevent the implementation of the president's program.

Congress has the ability to block the administration from granting deferred action and work authorization to illegal aliens by cutting off funding. While many congressional Republicans support the inclusion of language in Appropriations legislation prohibiting funds to carry out the executive amnesty, House Speaker John Boehner has thus far refused to commit to defunding the program.

FAIR urges all members and activists to go to www.fairus.org to sign up for the latest updates to ensure that your voice is heard in this critical effort to stop the Obama amnesty from moving forward.

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GOVERNORS TO SUE PRESIDENT *continued*

TEXAS GOVERNOR
GREG ABBOTT

The legal challenge to the president's amnesty program is spearheaded by Texas Gov. Greg Abbott, who was still the state's attorney general at the time the suit was filed. Abbott noted that Texas has borne the brunt of the recent surge of illegal aliens pouring across the southern border, imposing significant costs on taxpayers. But he insisted that larger constitutional issues are also at stake in the suit. "What we're suing for is...harm to the Constitution by empowering the president of the United States to enact legislation on his own without going through Congress...It's the Constitution itself that is under assault by the president of the United States by this executive [action]," Abbott charged.

The other states joining the lawsuit are: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Maine, Michigan, Mississippi, Montana, Nebraska, North Carolina, South Carolina, North

Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, and Wisconsin. (The governors of three states that are party to the suit, Arkansas, Montana, and West Virginia, are Democrats.)

The judge who will preside over the governor's lawsuit, Andrew Hanen, has been highly critical of unilateral decisions by the Obama administration to make significant changes in immigration policy. Judge Hanen accused the administration of participating in a criminal conspiracy to smuggle children into the U.S. by reuniting them with parents who are living here illegally. Judge Hanen has scheduled a pretrial hearing for March 31.

Governors are not the only ones challenging President Obama's constitutional authority to grant amnesty to millions of illegal aliens through executive action. Maricopa County, Arizona, Sheriff Joe Arpaio was first out of the gate, filing a lawsuit the day after the president's announcement. In early December, U.S. District Court Judge Beryl A. Howell in Washington, D.C., granted a motion fast-tracking Arpaio's lawsuit. Judge Howell scheduled a hearing for a preliminary injunction, which would effectively stop implementation of the president's program, for December 22. (The current edition of the FAIR newsletter was completed before the hearing date.)

Like the suit brought by 24 governors, Arpaio's suit contends that, "This unconstitutional act will have a serious detrimental impact. Specifically, it will severely strain our resources. Among the many negative effects of this executive order, will be the increased release of criminal aliens back onto streets of Maricopa County, Arizona, and the rest of the nation."

Sheriffs from Around the Country Come to D.C. to Oppose Obama's Executive Amnesty

Sheriffs, the nation's elected law enforcement officials, are becoming increasingly vocal in their concerns about the impact of illegal immigration on the safety of their constituents and in their opposition to Presi-

dent Obama's executive amnesty plan. A contingent of sheriffs, from across the United States, with the support of the National Sheriffs' Association, came to Washington, D.C., on December 10 to meet with members of

SHERIFFS DESCEND ON D.C. *continued*

Congress and speak to the national media.

Tellingly, the trip was organized not by sheriffs whose counties straddle the southern border, but by Sheriffs Tom Hodgson and Joseph D. McDonald Jr., both of whom are from Massachusetts. They, like many other sheriffs far removed from the border, deal with crime and security threats posed by people who are in the country illegally. Moreover, these sheriffs complain that their voices are being ignored by the Obama administration. “Sheriffs across this country are tired of being marginalized. We need to make it clear that we’re the ones with the boots on the ground

at the border and we are saying loud and clear that the situation there is getting worse and worse,” said Hodgson.

The sheriffs blasted the Obama administration’s lax immigration enforcement and the president’s plans to implement amnesty through executive action at a Capitol Hill news conference organized by Senators Jeff Sessions (R-Ala.), David Vitter (R-La.), and Rep. Marsha Blackburn (R-Tenn.). At that news conference, Sheriff Sam Page of Rockingham County, North Carolina, warned that the decision by Homeland Security Secretary Jeh Johnson to terminate the Secure Communities program poses a significant risk

to public safety. “Without the program that identifies criminal aliens for removal, basically we are going to have ‘catch and release,’ and criminal offenders will be released back into our communities,” Page warned.

In recent years, FAIR has worked closely with sheriffs around the country who are becoming increasingly concerned about illegal immigration. This past summer, at the height of the illegal alien surge, FAIR organized a fact-finding tour of the southern border. Many of the sheriffs who attended were among those who came to Washington in December to voice their alarm about administration policies. ■

House Leadership Balks at Chance to Kill President’s Unconstitutional Amnesty in December Spending Bill

Congress’s best chance to kill President Obama’s unlegislated executive amnesty program is to cut off the funding he needs to carry it out. The first opportunity to prohibit the Department of Homeland Security from spending money to implement the amnesty program came during the lame duck session, when Congress finalized legislation, H.R. 83, to fund the federal government beyond December 11. Appropriations legislation originates in the House of Representative, where Republicans were in control even before the start of the new Congress. Despite their expressed outrage at the president’s actions, the House Republican leadership rebuffed efforts by members of their own caucus to include defunding language in the DHS Appropriation measure.

In early December, House Speaker John Boehner (R-Ohio) was asked whether he would support efforts to defund the executive amnesty program. Boehner de-

clined to answer the question directly, claiming only that Congress has “limited options” for responding to the president’s initiative because U.S. Citizenship and Immigration Services (USCIS) – the agency tasked with implementing the amnesty program – is largely funded by user fees, rather than direct appropriations from Congress.

Boehner’s claim was patently false. On November 21, the nonpartisan Congressional Research Service issued a definitive opinion that Congress has the authority to prohibit USCIS from spending money to implement the executive amnesty program, regardless of how the agency is funded.

Further undermining the Speaker’s assertion that Congress’s hands are tied, the massive \$1.1 trillion spending bill approved in December included seven provisions restricting the use of fees collected by other

Illegal Immigration Up, Deportations (Way) Down

New data released by Immigration and Customs Enforcement reveal that the number of people deported from the United States in the last year declined sharply. During Fiscal Year 2014, which ended on September 30, ICE recorded 315,943 deportations, a 14 percent decline from the previous year. Despite widely reported accusations by illegal alien advocates that President Obama has been the “deporter-in-chief,” the FY 2014 numbers are the lowest of his administration – less than half the number of people deported in FY 2011. Overall, removals under Obama are the lowest since the Ford administration.

But even the 315,943 deportations do not paint the full picture of the Obama administration’s neglect of immigration enforcement. Only about 102,000 illegal aliens who were living in the interior of the United States were deported last year, the vast majority of whom, 85 percent, had criminal records. Thus, even before the Department of Homeland Security announced in November that deporting noncriminal aliens who lived in the U.S. prior to January 1, 2014, was no longer a priority, such removals had all but ceased. The vast majority of deportations continue to result from Border Patrol apprehensions, not the work of ICE, which is responsible for apprehending and removing illegal aliens in the interior.

The 14 percent decline in deportations was matched by a 15 percent increase in apprehensions of illegal aliens attempting to enter the U.S. Administration policies (even before the president’s sweeping executive amnesty announcement) are being widely interpreted by would-be illegal aliens as an invitation to come to the U.S. illegally. FY 2014 saw a surge of Central American illegal aliens, many of them minors, pouring across the southern border. Contrary to claims by President Obama and others in his administration that these illegal aliens would be swiftly returned to their homelands, most are being allowed to remain.

Another disturbing revelation in the ICE report is that during 2014, some 127,000 deportable aliens were released from detention before they could be removed. Among those released were 30,862 individuals with criminal convictions – a figure that again calls into question administration claims that it is doing an effective job in removing criminal aliens.

FY 2014 REMOVALS
315,943

14%
FROM 2013

102,224

ILLEGAL ALIENS REMOVED FROM INSIDE THE U.S.

85%

CONVICTED CRIMINALS



213,719

ALIENS APPREHENDED AT THE BORDER

56%

CONVICTED CRIMINALS

While Congress Dithers Over Defunding, Administration Gears Up for Amnesty

Congress deferred legislative action to defund President Obama's amnesty until February. In the meantime, the Obama administration is pushing forward with its preparations to grant amnesty to millions of illegal aliens beginning this spring. Just two weeks after the president's announcement, the Department of Homeland Security was already spending money to carry out the program. DHS revealed that it had rented additional office space in Arlington, Virginia, and had posted an announcement for 1,000 job openings at the U.S. Citizenship and Immigration Services agency.

Many of the new positions at USCIS will be permanent ones, paying as much as \$157,000 a year. In an internal email regarding the new hires, the department noted that, "The initial workload will include cases filed as a result of the executive actions on immigration announced on Nov. 20, 2014."

Kenneth Palinkas, the president of the union representing USCIS personnel, warned that the administration's moves have all the earmarks of a rubber-stamping operation to approve amnesty applications. "I think what they're leaning toward is just getting the paperwork done regardless of who does it," Palinkas noted. He also cautioned that the quick turnaround on the hiring announcement and the rental of office space suggests that the administration has been planning this move for quite some time.

Sen. Jeff Sessions (R-Ala.), one of the foremost congressional opponents of the Obama amnesty program, charged that the administration's quick action to staff-up is "a clear symbol of the president's defiance of the American people, their laws, and their Constitution...He is hiring federal employees to carry out a directive that violates the laws Congress has passed in order to foist on the nation laws Congress has repeatedly refused to pass," said Sessions.

CONGRESS DROPS THE BALL *continued*

federal agencies. The odds are that the out-going Senate Majority Leader Harry Reid (D-Nev.) would have stripped the defunding language from the DHS Appropriation when the bill reached the upper chamber, essentially holding the funding for the entire department hostage to the president's unconstitutional amnesty for illegal aliens.

Congress will get a second chance to defund the amnesty in early 2015. The DHS Appropriation, which was passed separately from the omnibus bill funding the rest of the federal government, runs out on February 27. With the start of the new year, Republicans will be in control of both houses of Congress and will no longer be able to use Reid and the Democrats as an excuse for inaction.

It is clear that Boehner and others in leadership positions do not really want to block the president's amnesty program, notwithstanding their protestations. It is also clear that they will have to contend with a strong bloc of Republican legislators in both houses who will continue to press for defunding language in legislation necessary to fund DHS beyond February 27.

The effort to pass legislation to fund the government nearly collapsed, just hours before the December 11 deadline. In the end, Boehner had to join forces with President Obama to cobble together enough votes to push H.R. 83 to a narrow 219-206 victory. The 67 House Republicans who voted against final passage did so largely because the bill failed to include a provision defunding the president's amnesty. In doing so, they put Boehner and the Republican leadership on notice that they will risk insurrection from their own members if defunding is not included in the next DHS spending measure.

Ensuring that those who support defunding amnesty prevail in the next DHS Appropriation battle will require significant input from the American public. On numerous occasions, Republican leaders have been forced to back away from pro-amnesty positions in the face of vocal opposition from voters around the country.

As in the past, FAIR is preparing to keep members, activists, and the American public informed of the latest developments in the critical defunding battle ahead. This information will allow people to respond in a timely fashion to ensure that their voices are heard by those who will be making the decisions. USCIS cannot begin accepting amnesty applications until mid-May, meaning that the new Congress still has an opportunity to kill the program before it gets off the ground.

The Gift that Keeps on Giving: Taxpayer-Funded Benefits for the Newly Amnestied

In addition to receiving deferred action or parole and work authorization under President Obama's executive amnesty, the anticipated 5 million recipients will also be eligible for many benefits and tax credits that could end up costing U.S. taxpayers billions of dollars annually.

In 1996, Congress required that even legal immigrants must wait at least five years to access most federal public benefits. However, this limitation will not apply to the illegal aliens granted deferred action and parole.

Parolees and deferred action beneficiaries will be considered "lawfully present"—the main criteria for eligibility for public benefits. Here are a few of those benefits that will be available to amnesty recipients.

Obamacare

While the Obama administration expressly excluded DACA recipients from eligibility for Obamacare, there is no such ruling that applies to this latest group of amnesty recipients. As "lawfully present" residents, they will be eligible for subsidized health care coverage under the Affordable Care Act.

Unemployment Benefits

The Federal Unemployment Tax Act specifically states that "lawfully present" aliens and those paroled into the U.S. are eligible for unemployment benefits.

Social Security

Provided they have met other eligibility requirements (usually having worked 40 quarters), they will be eligible to receive Social Security retirement benefits.

Medicare

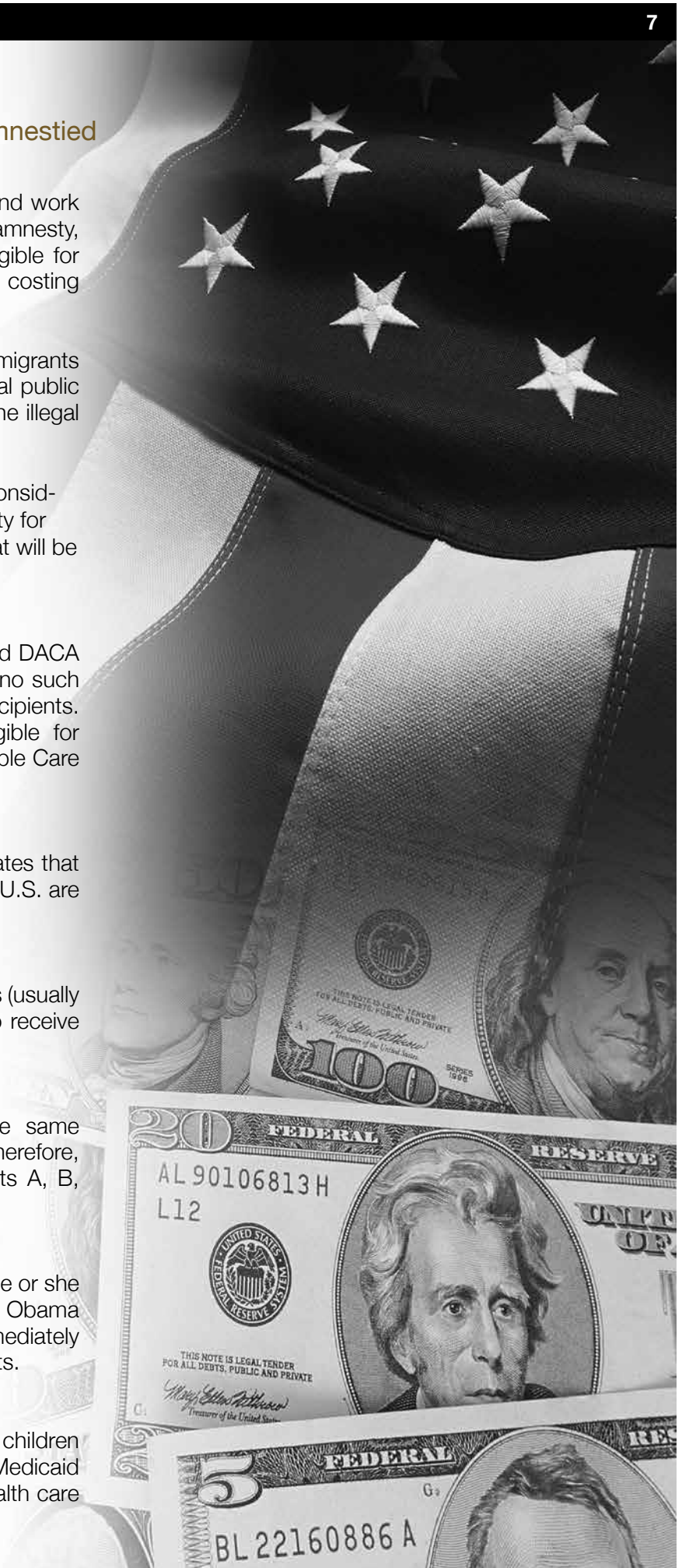
Eligibility for Medicare benefits is based on the same criteria as Social Security retirement benefits. Therefore, beneficiaries will also be eligible for Medicare Parts A, B, and D.

Earned Income Tax Credit

Once an alien is issued a Social Security Number, he or she is eligible to claim the EITC. Most recipients of the Obama amnesty are likely to have low incomes and will immediately become eligible for EITC payments and other credits.

Medicaid and SCHIP

Parolees and deferred action beneficiaries who are children or pregnant women are also immediately eligible for Medicaid and State Children's Health Insurance Program health care benefits in states that have opted to cover them.



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The Legacy You Leave

One of the simplest but most effective ways to support a charitable organization is through planned giving. This new year, why not create a legacy through a gift of a bequest to FAIR.

A charitable bequest, a gift made through your will or living trust, can benefit both you and the causes most important to you. Your bequest not only supports our efforts to achieve true immigration reform, but also leaves a legacy for your children and grandchildren.

It typically costs you nothing to add a charitable bequest to your will, and you have the flexibility of modifying the provisions at any time if your circumstances change.

Additionally, if you have a taxable estate, you may benefit from estate tax savings. This means that you can preserve and give more of your estate to your family.

Begin your legacy today through bequest giving. And if you have already included us in your plans, please let us know so that we may recognize and thank you.



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