

# Executive Actions on Immigration November 2014



## LEGAL AID JUSTICE CENTER

*Information accurate as of December 4, 2014. This presentation is intended to provide general legal information and is not a substitute for legal advice. Each case is different, and you should consult a qualified immigration attorney if you have questions about your own case. Notarios publicos are not attorneys and are not qualified to give you legal advice.*

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Legal Aid Justice Center – Immigrant Advocacy Program

# What did President Obama do?



Barack Obama

On Nov. 20, 2014, President Obama announced:

- Expanded Deferred Action for Childhood Arrivals (**DACA**);
- Introduction of Deferred Action for Parental Accountability (**DAPA**);
- Additional changes to other key programs.

More information available at: [www.uscis.gov/immigrationaction](http://www.uscis.gov/immigrationaction)

En Español: <http://www.uscis.gov/es/accionmigratoria>

# What did President Obama do?

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Once U.S. Citizenship and Immigration Services (USCIS) starts accepting applications, these changes will offer new benefits to an estimated 4.5 million immigrants.

NOTE: The application process has not yet been released. **Applications for the new programs are NOT YET being accepted.** Don't be the victim of fraud!

# What did President Obama NOT do?

- ❑ The President did not create a path to a “green card” or U.S. citizenship for undocumented immigrants. Only Congress can do that.
- ❑ The President did not offer deferred action to the parents of young people with DACA, unless a parent meets the requirements of one of the other programs such as DAPA.
- ❑ The President did not create any new program to benefit recent arrivals fleeing violence in Central America.

# Expansion of Deferred Action for Childhood Arrivals (DACA)

- Eliminated upper age limit for applicants;
- Requires continuous residence in the United States since **January 1, 2010**, instead of old requirement of June 15, 2007.
- Certain requirements unchanged, such as:
  - ▣ Still must have **come to the U.S. before your 16<sup>th</sup> birthday**;
  - ▣ Still must be at least 15 years old to apply, unless exception applies;
  - ▣ Educational requirements;
  - ▣ Criminal bars still in place
- **EXPANDED DACA HAS NOT STARTED YET – expected to start in late Feb. 2015**

# Expansion of Deferred Action for Childhood Arrivals (DACA)

- Extends the deferred action period and employment authorization to **three years** from the current two years (indefinitely renewable).
- New DACA and DACA renewals not yet issued will be for a period of three years, instead of two.



# Introduction of Deferred Action for Parental Accountability (DAPA)

New program! Allows an undocumented parent to request deferred action if she or he:

- Continuously resided in the United States since **January 1, 2010**;
- Is the **parent** of a U.S. citizen or lawful permanent resident born on or before Nov. 20, 2014;
- In U.S. with no lawful status on Nov. 20, 2014; and
- Are not an enforcement priority for removal from United States. (Criminal bars from DACA apply.)

# Introduction of Deferred Action for Parental Accountability (DAPA)

**DAPA HAS NOT STARTED YET. The DAPA program is expected to start in late May of 2015.**

Must have US citizen/lawful permanent resident child born on or before Nov. 20, 2014. Later-born child will not allow you to qualify.

Unclear what level of involvement in child's life will be required, or simply your name on birth certificate.



# “Enforcement Priorities” are NOT Eligible for Deferred Action

- People convicted of **felonies or aggravated felonies**;
- People convicted of **significant misdemeanors, or three or more misdemeanors**;
- People suspected of terrorism, gang association, or visa abuse;
- People who are otherwise suspected to be a threat to national security, public safety, or border security

# Significant Misdemeanors

- **Domestic violence**
- Sexual abuse
- Burglary
- Firearms offenses
- Drug distribution
- **DRIVING UNDER THE INFLUENCE**
- Any offense where offender serves 90 days or more in custody

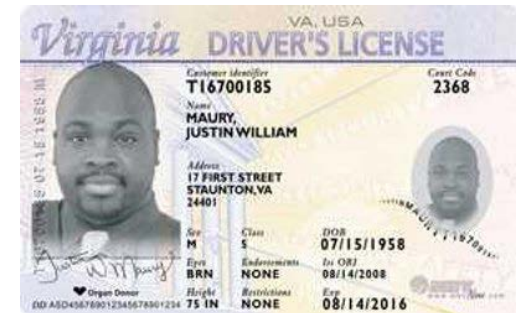
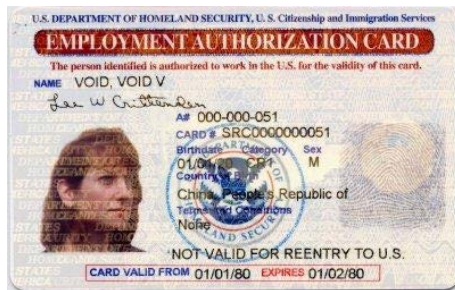
# “Three or More Misdemeanors”

- Does NOT include minor traffic offenses;
- Does NOT include convictions where person's immigration status was part of the offense;
- Means three separate events—NOT three convictions from the same event.

# Benefits of Deferred Action

Individuals granted deferred action are eligible for:

- Work authorization;
- Social Security number; and
- Protection from deportation.



# Can I travel abroad?

- May **apply** for advance parole (which grants permission to reenter the US) only *after* being **granted** deferred action and if the individual has certain reasons for needing to travel. **CANNOT** travel now, or while application for deferred action is still pending.
- Even if granted advanced parole, always seek advice of an immigration attorney. Travel is risky and may not be advised for individuals who have ever been out of status.
- **DO NOT TRAVEL ABROAD WITHOUT FIRST HAVING BEEN GRANTED ADVANCED PAROLE!**

# Deferred Action in Virginia

Under existing Virginia law, individuals granted deferred action are currently eligible to apply for:

- **Virginia driver's licenses;** and
- **In-state tuition** rates at Virginia's public colleges and universities (after one year of deferred action).

NOTE: Virginia's General Assembly meets in January, and a bill has been introduced to change these laws to get rid of access to in-state tuition. Stay informed, organize to defend our victories, and be ready to speak out!

# Deferred Action in Virginia



USCIS reports that more than **9,000** Virginians have already been approved for deferred action under the 2012 DACA program.

The Migration Policy Institute estimates that **62,000** Virginians may be eligible for DAPA, and an additional **4,000 more** may be eligible for expanded DACA!

# What Can I Do Right Now?

- Save money (at least **\$465** per person – no fee waivers);
- Get proof of **who you are**:
  - ▣ Birth certificate, and certified English translation
  - ▣ Home country passport, cedula, matricula consular, etc.
- Gather **proof of your relationship** to U.S. citizen or lawful permanent resident child (birth certificate);
- Gather **proof of how long you have been in the U.S.**;
- Obtain **certified disposition** for any arrests/charges
  - Whether or not the arrest resulted in a conviction, acquittal, or “they dropped the case”



# Example of a Certified Disposition

**290** [REDACTED] **VIRGINIA UNIFORM SUMMONS**

AGENCY Case No. [REDACTED] **FAIRFAX COUNTY POLICE** CASE NO. [REDACTED] HEARING DATE AND TIME [REDACTED]

PROSECUTING ATTORNEY (NAME)  
 DEFENDANT'S ATTORNEY (NAME)  
 NO ATTORNEY  
 ATTORNEY WANTED

THE ACCUSED WAS THIS DAY:  
 PRESENT  
 ABSENT

THE ACCUSED PLEADED:  
 NOT GUILTY  
 NOLO CONTENDERE  
 GUILTY  PLEA/MENT  
 AND WAS TRIED AND FOUND BY ME:  
 JURORS SUFFICIENT - DEFERRED \$ VACSON  
 NOT GUILTY  
 GUILTY AS CHARGED  
 GUILTY OF \_\_\_\_\_

IN ADDITION I FIND THE ACCUSED WAS:  
 DRIVING A COMMERCIAL MOTOR VEHICLE  
 CARRYING HAZARDOUS MATERIALS  
 ORDER THE CHARGE DISMISSED  
 ORDER A NOLLE PROSEQUI ON COMMONWEALTH MOTION

I IMPOSE THE FOLLOWING SENTENCE:  
 CIVIL PENALTY OF \$ 800 WITH \$ \_\_\_\_\_ SUSPENDED  
 DRIVER'S LICENSE SUSPENDED SPECIFIC IN FIFTEEN (15) DAYS IF FINES/COSTS/FORFEITURE/PENALTY/RESTRICTION NOT PAID IN FIFTEEN (15) DAYS. \$ 492.305.  
 JAIL SENTENCE OF \_\_\_\_\_ WITH \_\_\_\_\_ SUSPENDED CONDITIONED UPON BEING OF GOOD BEHAVIOR AND KEEPING THE PEACE.  
 ON PROBATION FOR \_\_\_\_\_  
 DRIVER'S LICENSE SUSPENDED \_\_\_\_\_  
 RESTITUTION OF \_\_\_\_\_ PAYABLE TO \_\_\_\_\_ AS CONDITION OF SUSPENDED SENTENCE.  
 OTHER: SUM VAC (NOT TO ENTER JUDICIAL RECORD)  
 DATE \_\_\_\_\_ JUDGE \_\_\_\_\_  
 APPEAL BOND \$ \_\_\_\_\_  APPEAL NOTED ON \_\_\_\_\_  
 APPEAL WITHIN \_\_\_\_\_

YOU ARE SUMMONED TO APPEAR IN THE FAIRFAX COUNTY GENERAL DISTRICT COURT  CRIMINAL  TRAFFIC  
 4110 Chain Bridge Road  
 Fairfax, Virginia 22030  
 Juvenile and Domestic Relations Court  
 4000 Chain Bridge Road  
 Fairfax, Virginia 22030  
 Other Jurisdiction \_\_\_\_\_  
 on \_\_\_\_\_, 2004, at 9:30 A.M. P.M.  
 for violation of  state  county  city  town law section \_\_\_\_\_ Describe charge:  
Petit Larceny - Concealment  
Compl. Mags  
 Commercial Motor Vehicle  Yes  No  
 Hazardous Materials  Yes  No  
 Highway Safety Corridor  Yes  No  
 I promise to appear at the time and place shown above. Signing this summons is not an admission of guilt. I certify that my current mailing address is as shown below.  
[Signature]  
 You must appear at trial (juveniles must appear with parent/legal guardian).  
 You may avoid coming to court only if this block is checked and all instructions on DEFENDANT'S COPY are followed.  
**Only call (SEE REVERSE) if more help is needed.**

MAILING ADDRESS:  SAME AS ABOVE AT RIGHT  CHANGE FROM D. L.

**110/201 FINE** \$ \_\_\_\_\_  
**114/129/237 CIVIL PENALTY** \$ \_\_\_\_\_  
**460 FIXED TRAFFIC INFRACTION FEE** \$ \_\_\_\_\_  
**461 FIXED MISDEMEANOR FEE** \$ 59  
**462 FIXED MISDEMEANOR FEE-DRUGS** \$ \_\_\_\_\_  
**121 TIA FEE** \$ \_\_\_\_\_  
**120/217 CT. APPT. ATTY.** \$ \_\_\_\_\_  
**143 WITNESS FEE** \$ \_\_\_\_\_

**FAIRFAX COUNTY GENERAL DISTRICT COURT**  
 I, the undersigned clerk or deputy clerk of the above-named court, authenticate pursuant to Va. Code § 8.0-1301(C) on this date that the document is a record in the above-named court, that the copy of performance of my official duties, is true and correct.  
 DATE \_\_\_\_\_  
 109 INTEREST CHARGE \_\_\_\_\_  
 TOTAL WITH INTEREST \$ \_\_\_\_\_

OFFICER: J.C.16  
 ARREST DATE: 02  
 ARREST LOCATION: 50  
 CODE/BADGE #: [REDACTED]

CITY/TOWN: Springfield VA STATE: VA ZIP: 22152  
 RES. ADDRESS: [REDACTED] RES. JURIS. 029  
 CITY/TOWN: Springfield VA STATE: VA ZIP: 22152  
 RACE: W SEX: F D.O.B. [REDACTED] HT. [REDACTED] WT. [REDACTED] EYES: BR HAIR: DR  
 DL/CDL# (if Criminal Offense or no License use SSN) [REDACTED] STATE: VA  
 V E H YEAR MAKE TYPE LICENSE NO. YR. STATE: VA  
 JURIS. OF OFF. DATE OF OFF. DAY OF WK. TIME A.M. P.M.  
 029 [REDACTED] WED 9:50  
 DIRECTION ACCIDENT WEAR ROUTE NO./STREET  
 yes no  
 LOCATION OF OFFENSE:  
 6400 Springfield Mall (710.01)  
 ARREST DATE: 02 ARREST LOCATION: 50  
 OFFICER: J.C.16 CODE/BADGE #: [REDACTED]  
 MAILING ADDRESS: [REDACTED] CITY/TOWN: [REDACTED] STATE: [REDACTED] ZIP: [REDACTED]

290 [REDACTED] COURT COPY - PAGE 1 PD Form 09 (REV. 7/03)

# What Can I Do Right Now?

- If you have a prior deportation or removal order, or prior immigration history, gather your files from any former attorneys;
- DACA: If not graduated high school, then enroll in GED or similar program
  - ▣ Not all programs qualify. Speak to an attorney for specifics.
- Stay informed and know your rights!
- **Beware of notario fraud! “Notario publico” is not a lawyer, and by law may not charge for legal services.**

# Prove When You Arrived in the U.S.

- If entered with visa and overstayed: Immigration record or documents with your date of entry, passport with admission stamp (Form I-94/I-95/I-94W), travel records, Notice to Appear.
- If entered without visa: As many documents as possible proving your presence in the U.S. prior to Jan. 1, 2010.

# Prove You've Been in the U.S. since Jan. 1, 2010

Show dates and addresses using:

- immigration documents,
- government records,
- **medical records or medical bills,**
- military records,
- employment records **ONLY IF** bearing your real name,
- religious or community organization records,
- insurance policies,
- tax records,
- bank receipts, financial records, credit card receipts,
- money transfer receipts,
- residential lease
- utility bills or cell phone bills,
- Club memberships, etc.
- **USCIS wants to see original documents, not letters generated after the fact.** Ex: Paystubs, not letter from employer.
- **DO NOT PAY ANYONE FOR AN AFFIDAVIT/LETTER ON YOUR BEHALF.**

# Does Applying Put Myself and My Family at Risk?

- USCIS will refer denied cases to ICE for removal hearings only if:
  - Criminal offense
  - Fraud
  - Threat to national security
- Consult with an experienced immigration attorney **prior to filing**.
- Information obtained during DACA process has not been used to “round up” parents of DACA applicants.
- **DON'T LIE ON YOUR APPLICATION!** If not 100% certain how to answer a question, consult an attorney **before** filing.

# Will the Next President Cancel These Deferred Action Programs?

- ❑ No way to know.
- ❑ Politically, the more people who apply, the harder it will be for the next president to simply cancel this program.
  - ❑ Ex: TPS still being renewed for Salvadorans/Hondurans.
- ❑ Success of this program will help political push for “real” comprehensive immigration reform; failure of this program could be fatal to political push for “real” comprehensive immigration reform.

# Where Can I Get More Information?

U.S. Citizenship and Immigration Services:

[www.uscis.gov/immigrationaction](http://www.uscis.gov/immigrationaction)

En Español:

<http://www.uscis.gov/es/accionmigratoria>

Administrative Relief Resource Center:

[www.adminrelief.org](http://www.adminrelief.org)

National Immigration Law Center:

[www.nilc.org/relief.html](http://www.nilc.org/relief.html)

# Non-profit legal services providers:

- Just Neighbors, (703)979-1240
    - ▣ No cases currently in deportation proceedings.
    - ▣ Will be processing expanded DACA's as of Feb. 2015
  - Hogar Immigrant Services, (703) 534-9805
  - Northern Virginia Family Service, (571) 748-2800
  - Ayuda: (703) 444-7009 x 10
    - ▣ Call on the 15<sup>th</sup> of the month to make an appt.
- REMEMBER, EXPANDED DACA AND DAPA ARE NOT AVAILABLE UNTIL SPRING 2015**



# How Can I Get Involved?

Virginia Coalition of Latino Organizations  
(VACOLAO)

Follow VACOLAO on Facebook or contact

Edgar Aranda-Yanoc: [edgar@justice4all.org](mailto:edgar@justice4all.org)

Other key advocacy groups working on these issues in  
Virginia:

Legal Aid Justice Center, Virginia Organizing Project, Virginia New Majority, Virginia Coalition for Immigrant Rights, Virginia Interfaith Center for Public Policy, American Civil Liberties Union of Virginia, Dream Activist Virginia, CASA de Virginia, Coalition of Asian Pacific Americans of Virginia (CAPAVA), and many others.



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