

# Michigan's immigrant youths put in legal limbo

*Detroit*— For Sergio Martinez, proving that he has been in the United States from the age of 5 hasn't been easy.

U.S. Immigration and Customs officials wanted every report card, school award, immunization record and transcript he has acquired over 21 years

Luckily, his mother provided him with all of his records, practically enough documentation to fill a Sunday newspaper.

"You name it, they asked for it. I'm surprised they didn't ask for a hair sample," said Martinez, 24, who lives in Detroit.

He is among the 308,935 young adults who were brought into the country illegally as children who have applied for a two-year deferment from deportation under an Obama administration policy announced this year.

But the stack of records will not be enough for Martinez to get a driver's license or state identification card in Michigan.

Martinez is among the 7,000 to 12,000 undocumented immigrants in Michigan who meet the requirements of President Barack Obama's federal Deferred Action for Childhood Arrivals, but are not being allowed to obtain licenses in Michigan. Secretary of State Ruth Johnson ruled in October that this group of immigrants does not have legal presence in the country.

Johnson's spokeswoman, Gisgie Gendreau, said the state cannot issue licenses until the undocumented immigrants are granted legal presence to be in the United States.

"We rely on the federal government to tell us who is here legally; we don't determine that," Gendreau said. "So far, the federal government has not provided information to the states indicating that DACA grants that legal status."

The Johnson ruling typifies a legal limbo existing for recipients of deferred action. Under that policy, young adults who arrived in the country illegally as children can be granted work permits and Social Security numbers, but only for two years. The policy does not automatically lead to permanent legal status or citizenship.

Getting into the deferred action program is a lengthy process. Among the many requirements, applicants must:

Have proof of identity and can prove he or she arrived in the country before age 16 and were under age 31 as of June 15, 2012.

Provide evidence he or she graduated or is working toward completing high school or its equivalent and must be otherwise law-abiding.

Once approved, the applicant can get a work permit and may be eligible to get a Social Security number.

## Mich. challenges policy

While most states have not challenged the policy, Michigan joins the two states — Nebraska and Arizona — that have banned the issuance of driver's licenses to undocumented immigrants who qualify for the deferred action program. Conversely, in California, the state with one of the heaviest concentrations of immigrants in the country, Gov.

Jerry Brown in September signed a law that allows people approved for DACA to obtain driver's licenses or state ID cards.

"It seems that the national trend among states is we're already seeing a pro-immigrant position versus anti-immigrant," said Alina Das, a law professor at the Immigrant Rights Clinic at New York University.

"That's why Michigan to me is interesting. ... I would not have guessed that (the Michigan secretary of state) would have taken this position given the climate there. Michigan has a strong and vibrant immigrant community."

Immigrant rights groups, legal experts and young immigrants who call themselves DREAMers — a nod to failed federal legislation that would have given young immigrants a path to citizenship — say Johnson's directive is misguided, based on her reasoning that DACA doesn't give recipients legal presence.

Wayne County Executive Robert Ficano joined activists last month in opposing Johnson's ruling. In a letter to Gov. Rick Snyder, Ficano urged him to issue an executive directive calling for Johnson to rescind her decision.

"Ms. Johnson apparently issued her directive based on the legally erroneous conclusion that because a DACA designation 'does not provide legal status' to the DACA beneficiary, the DACA beneficiary is, therefore, 'unlawfully present' within the United States," the letter states. "She apparently reached this decision, notwithstanding federal authority stating that although a DACA designation may not confer legal status on that individual, the person is nonetheless, 'legally present' within the United States."

## The legal case

Gendreau said Johnson in recent weeks has met with the American Civil Liberties Union to discuss the group's concerns and explained that unless the federal government changes its position, the Secretary of State's Office cannot change its position.

Susan Reed, supervising attorney for the Michigan Immigrant Rights Center, an advocacy group in Kalamazoo, said she finds that reasoning hard to believe.

"I think that they're giving that term a tremendous amount of weight when it really has no weight at all," Reed said.

The legal case in favor of licenses and IDs for DACA recipients made by immigration advocates relates to the federal REAL ID Act. That law, enacted in 2005, considers individuals in deferred action to be lawfully present for the purpose of obtaining driver's licenses, they argue.

"Regulations implementing the REAL ID Act specifically state that an individual with approved deferred action has 'valid documentary evidence that the applicant is lawfully present in the United States,'" according to an issue brief published by the Michigan Immigrant Rights Center.

Under a state law passed in 2004, applicants for driver's licenses must provide valid evidence that they possess a Social Security number.

That has meant many illegal immigrants — whose licenses have expired over the past eight years — have risked being caught driving without a license.

One Detroit area resident got caught recently in the dilemma. While awaiting approval of a deferred action application, a 19-year-old, named Jose, who plans to attend Washtenaw Community College next term, was stopped

by Redford police on I-96 and ticketed for driving without a license. Jose asked that his last name not be published out of fear that his father, who is undocumented, would be deported.

When Jose couldn't show the necessary documentation, his car was impounded, and he and his mother had to get a ride from a nearby gas station, Jose said.

Only weeks ago, Jose learned he had work authorization and a Social Security card, which he might have been able to use to renew his license. "I'm caught in this situation where I can go to work, I can go to school, I'm legal here, but I can't go to work and can't go to school."

Meanwhile, Sergio Martinez continues to take chances getting from his job as a bartender to the brick home in Detroit he and a friend are renovating.

Instead of letting the fear get to him, Martinez said he pays close attention to every development out of Washington. He works closely with the Alliance for Immigrants Rights and Reform Michigan to share his story.

If he could have, Martinez said he would have voted for Obama, calling him his hero for the measures the president has taken to decriminalize immigrants.

Still, he says he has to drive like a grandmother to avoid getting pulled over. And he missed joining friends on a recent trip to Lebanon because he would not be authorized to return to the United States.

"I've almost contemplated moving to Mexico," Martinez said, though he doubts he would fit in if he were to return to his native Mexico City. "It's almost like America doesn't want me here."

<http://www.detroitnews.com/article/20121203/METRO/212030340>