

Young illegal immigrants may seek reprieves amid questions

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As thousands of young illegal immigrants in Massachusetts prepare to apply for federal reprieves from deportation starting this week, the state has yet to clarify whether successful applicants will qualify for driver's licenses and resident tuition at public colleges and universities.

Immigrants 30 and younger in Massachusetts and nationwide can apply for two-year stays of deportation and work permits beginning Wednesday under a sweeping policy President Obama unveiled two months ago. While widely hailed as a victory for young people who came here when they were children, few of the practical effects of the program known as deferred action have been outlined by the federal or state government.

About 10,000 to 20,000 immigrants in Massachusetts could apply for the deferrals, according to the Washington-based Migration Policy Institute, while national estimates range from 800,000 to more than 1 million. Immigrants, who must pay the federal government \$465 apiece for the deferrals, say they are especially hoping to be eligible for resident tuition in Massachusetts.

"It's hundreds of students that would be able to finally go to school," said Conrado Santos, an organizer with the Boston-based Student Immigrant Movement who had to drop out of a state university because he could not afford the higher nonresident rate. "Work permits are great, but our goal is to pursue higher education."

Governor Deval Patrick, Obama's close friend and ally, has supported driver's licenses and resident tuition for illegal immigrants, but has not said whether this change will make it possible to get them. Last week his spokeswoman said they were still awaiting information from the federal government about how to proceed.

"The memo issued by the Department of Homeland Security clearly states that it 'confers no substantive right, immigration status, or pathway to citizenship' and therefore does not change current state laws or policies governing these issues at this time," spokeswoman Kimberly Haberlin said in a prepared statement. "We will evaluate any further guidance from the Department of Homeland Security on these issues as it is issued."

Several immigration lawyers said last week that they believe young immigrants should qualify for licenses and resident tuition in Massachusetts based on existing laws and state policies.

"I think they're definitely eligible," said John Willshire Carrera, co-managing director of the Harvard Law School Immigration and Refugee Clinic at Greater Boston Legal Services. "From my perspective, they qualify."

Social Security Administration officials confirmed Saturday that federal law requires them to issue Social Security numbers to noncitizens with work permits. Immigrants could then use the number, typically what they are missing, to apply for a license.

Rachel Kaprielian, head of the Registry of Motor Vehicles, said that anyone can apply for a state license if they have the proper paperwork. Besides a Social Security number, applicants must provide proof of state residency, such as a utility bill, as well as documents that show their date of birth and signature, such as a birth certificate and passport.

Of the immigrants who get deferred action, she said: “We expect they’ll be coming. As of now it’s a relatively new change. But for us and for our clerk training, nothing has changed. It is the same set of requirements and the same set of documents, and they treat everybody the same.”

Immigration lawyers said the young immigrants also appear to be eligible for in-state tuition, but state officials said they could not confirm that.

Heather Johnson, spokeswoman for the Massachusetts Executive Office of Education, acknowledged in an e-mail that the state allows Haitians and other immigrants with a different form of temporary protection from deportation to pay resident tuition, but she did not say whether that will extend to young immigrants with deferred action.

Federal agencies offered little clarity on the effect of Obama’s new policy last week. US Citizenship and Immigration Services, the Department of Homeland Security agency running the program, had no comment on licenses and tuition.

White House officials did not answer questions about them, either. Obama has acknowledged that driver’s licenses and access to college are hurdles for young illegal immigrants, but he did not say if the deferrals would surmount them.

“The president’s words speak for themselves,” said White House spokesman Keith Maley. “The president was addressing the absence of action at the federal level from Congress, the Administration’s efforts to focus enforcement resources in the right place — for example focusing on criminals rather than students — that this policy is a temporary stopgap, and that Congress still needs to act.”

Advocates for immigrants say tuition is a major priority because many cannot afford a public college or university at the higher nonresident rates. Nonresident undergraduate tuition alone at the University of Massachusetts Amherst is \$9,937, compared with \$1,714 for residents, according to 2011 figures, the most recent available.

Others are turning to private schools. One of those is Gladys Gitau, an 18-year-old from Kenya who graduated from Lawrence High School and managed to secure a private scholarship to attend a college in Washington.

“I worked very hard to be at the top of my class,” she said.

Critics of Obama's policy say they oppose licenses or resident tuition for young immigrants with deferred action. They say Obama bypassed Congress, where federal legislation that would create a path to US citizenship for young illegal immigrants failed narrowly in 2010.

"Our thoughts are no," said Ira Mehlman, spokesman for the Federation for American Immigration Reform, which opposes illegal immigration. "These are state policies, not federal policies."

States across the country are expected to confront these issues in the coming months because most do not currently allow illegal immigrants to obtain driver's licenses or pay in-state tuition, according to the National Conference of State Legislatures, a bipartisan research organization based in Washington.

Massachusetts has fiercely debated both issues: In 2004, then-governor Mitt Romney, now Obama's Republican rival for the presidency, vetoed in-state tuition for illegal immigrants, and a similar measure passed the Senate the following year but failed in the House.

In 2003, a bill that sought to allow illegal immigrants to obtain driver's licenses went nowhere after Romney vowed to oppose it.

The political stalemate across the country is one of the reasons Obama said he decided to act in June, though he is also facing pressure from advocates for immigrants, especially in states where the Latino vote could be decisive in the elections.

Under Obama's new policy, US Citizenship and Immigration Services will start accepting applications Wednesday from immigrants age 30 and under who came to the United States before they turned 16. Applicants must be in school, or have graduated, or have been honorably discharged from the military.

Immigrants also must prove that they have lived in the United States continuously since 2007 — a challenging task for young illegal immigrants who have been ineligible for official government identification.

It is unclear what the federal government will accept as proof, but in addition to traditional high school diplomas, young immigrants are gathering report cards, vaccination records, cellphone bills, and gym memberships to prove that they were in the United States year-round.

Some immigrants have expressed fear of deportation if they apply for deferred action and are rejected, though federal officials said they will not report them unless they are a threat to public safety or national security. All immigrants will undergo background checks. Immigrants convicted of a felony, significant misdemeanor, or three or more other misdemeanors are ineligible to apply.

Others are debating whether to apply after the presidential elections, in case Obama loses to Romney, who has said he would replace Obama's "temporary measure" with his own.

http://articles.boston.com/2012-08-12/metro/33155594_1_illegal-immigrants-immigration-lawyers-migration-policy-institute