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Obama Said to Plan Moves to Shield 5 Million Immigrants

By MICHAEL D. SHEAR, JULIA PRESTON and ASHLEY PARKER NOV. 13, 2014

WASHINGTON — President Obama will ignore angry protests from Republicans and announce as soon as next week a broad overhaul of the nation's immigration enforcement system that will protect up to five million undocumented immigrants from the threat of deportation and provide many of them with work permits, according to administration officials who have direct knowledge of the plan.

Asserting his authority as president to enforce the nation's laws with discretion, Mr. Obama intends to order changes that will significantly refocus the activities of the government's 12,000 immigration agents. One key piece of the order, officials said, will allow many parents of children who are American citizens or legal residents to obtain legal work documents and no longer worry about being discovered, separated from their families and sent away.

That part of Mr. Obama's plan alone could affect as many as 3.3 million people who have been living in the United States illegally for at least five years, according to an analysis by the Migration Policy Institute, an

immigration research organization in Washington. But the White House is also considering a stricter policy that would limit the benefits to people who have lived in the country for at least 10 years, or about 2.5 million people.

Extending protections to more undocumented immigrants who came to the United States as children, and to their parents, could affect an additional one million or more if they are included in the final plan that the president announces.

Mr. Obama's actions will also expand opportunities for immigrants who have high-tech skills, shift extra security resources to the nation's southern border, revamp a controversial immigration enforcement program called Secure Communities, and provide clearer guidance to the agencies that enforce immigration laws about who should be a low priority for deportation, especially those with strong family ties and no serious criminal history.

A new enforcement memorandum, which will direct the actions of Border Patrol agents and judges at the Department of Homeland Security, the Justice Department and other federal law enforcement and judicial agencies, will make clear that deportations should still proceed for convicted criminals, foreigners who pose national security risks and recent border crossers, officials said.

White House officials declined to comment publicly before a formal announcement by Mr. Obama, who will return from an eight-day trip to Asia on Sunday. Administration officials said details about the package of executive actions were still being finished and could change. An announcement could be pushed off until next month but will not be delayed into next year, officials said.

"Before the end of the year, we're going to take whatever lawful actions that I can take that I believe will improve the functioning of our immigration system," Mr. Obama said during a news conference a day after last week's midterm elections. "What I'm not going to do is just wait."

The decision to move forward sets in motion a political confrontation between Mr. Obama and his Republican adversaries that is likely to affect budget negotiations and debate about Loretta E. Lynch, the president's

nominee to be attorney general, during the lame-duck session of Congress that began this week. It is certain to further enrage Republicans as they take control of both chambers of Congress early next year.

A group of Republicans — led by Senator Ted Cruz of Texas, Senator Mike Lee of Utah and Senator Jeff Sessions of Alabama — is already planning to thwart any executive action by the president on immigration. The senators are hoping to rally their fellow Republicans to oppose efforts to pass a budget next month unless it explicitly prohibits the president from enacting what they call “executive amnesty” for people in the country illegally.

“Our office stands ready to use any procedural means available to make sure the president can’t enact his illegal executive amnesty,” said Catherine Frazier, a spokeswoman for Mr. Cruz.

But the president and his top aides have concluded that acting unilaterally is in the interest of the country and the only way to increase political pressure on Republicans to eventually support a legislative overhaul that could put millions of illegal immigrants on a path to legal status and perhaps citizenship. Mr. Obama has told lawmakers privately and publicly that he will reverse his executive orders if they pass a comprehensive bill that he agrees to sign.

White House officials reject as overblown the dire warnings from some in Congress who predict that such a sweeping use of presidential power will undermine any possibility for cooperation in Washington with the newly empowered Republican majority.

“I think it will create a backlash in the country that could actually set the cause back and inflame our politics in a way that I don’t think will be conducive to solving the problem,” said Senator Angus King of Maine, an independent who caucuses with the Democrats and supports an immigration overhaul.

The question of when the president should make the announcement is still being discussed inside the West Wing, officials said. Announcing the actions quickly could give Mr. Cruz and others a specific target to attack, but it would also allow immigration advocates to defend it. Waiting until later in

December could allow the budget to be approved before setting off a fight over immigration.

Although a Republican president could reverse Mr. Obama's overhaul of the system after he leaves office in January 2017, the president's action at least for now will remove the threat of deportation for millions of people in Latino and other immigrant communities. Immigration agents are to instead focus on gang members, narcotics traffickers and potential terrorists.

Officials said one of the primary considerations for the president has been to take actions that can withstand the legal challenges that they expect will come quickly from Republicans. A senior administration official said lawyers had been working for months to make sure the president's proposal would be "legally unassailable" when he presented it.

Most of the major elements of the president's plan are based on longstanding legal precedents that give the executive branch the right to exercise "prosecutorial discretion" in how it enforces the laws. That was the basis of a 2012 decision to protect from deportation the so-called Dreamers, who came to the United States as young children. The new announcement will be based on a similar legal theory, officials said.

The White House expects a chorus of outside legal experts to back it up once Mr. Obama makes the plan official. In several "listening sessions" at the White House over the last year, immigration activists came armed with legal briefs, and White House officials believe those arguments will quickly form the basis of the public defense of his actions.

Many pro-immigration groups and advocates — as well as the Hispanic voters who could be crucial for Democrats' hopes of winning the White House in 2016 — are expecting bold action, having grown increasingly frustrated after watching a sweeping bipartisan immigration bill fall prey to a gridlocked Congress last year.

"This is his last chance to make good on his promise to fix the system," said Kevin Appleby, the director of migration policy at the United States Conference of Catholic Bishops. "If he delays again, the immigration activists would — just politically speaking — jump the White House fence."

Some groups, like the United We Dream network, the largest organization of young undocumented immigrants, are preparing to deploy teams to early 2016 states like Iowa and New Hampshire to hold presidential candidates accountable and press for more action.

“From our perspective, the president has the power, the precedent and the priority for action on his side,” said Clarissa Martínez-De-Castro, deputy vice president of NCLR, also known as the National Council of La Raza. The opportunity “to go big and bold is what will allow the country to derive the biggest benefit on both the economic side and the national security side.”

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