



IMPORTANT WARNING FOR PEOPLE INTERESTED IN APPLYING FOR THE DEFERRED ACTION PROGRAM ANNOUNCED BY PRESIDENT OBAMA

There are thousands of people who will benefit from this program. Until the regulations and rules regarding the program are released in 60 days or so, we urge you to use this time to collect documents that will help prepare your case.

- **DO NOT apply without getting your criminal history (including juvenile delinquency adjudications) reviewed FIRST.** The Department of Homeland Security (DHS) will conduct background checks, collect information from local law enforcement, and examine your criminal history, including arrest records and criminal warrants. You risk having DHS and/or ICE **detain and deport** you, if you apply for deferred action without having your criminal history reviewed.

We do not know what kind of criminal history could bar you from the deferred action program announced by Obama last week. We know that convictions for a felony, a significant misdemeanor or three or more misdemeanors are bars to the program. Moreover, a person who immigration authorities consider a “public safety threat” or a “national security threat” will be barred.

What is a “significant misdemeanor”?

This is an unclear phrase. According to recent documents released by the government, it appears it will include offenses such as driving under the influence, possession of a controlled substance (e.g. marijuana), obstruction of justice, assault and theft. Many of these crimes can subject you to mandatory detention. Do not assume that your misdemeanor conviction is not a serious misdemeanor.

What could count as a “public safety threat”?

We do not know. It could be that officials will look behind dismissed charges or juvenile delinquency adjudications to determine whether a person presents a public safety threat. :

- juvenile delinquency adjudications
- any connections with gang activity or any action where the police stopped you and asked questions about gangs or gang membership
- any arrest or dismissed charge.

What could count as a “national security threat”?

We do not know. DHS broadly characterizes “participation in activities that threaten the United States” as a national security threat. This means it will not be limited to criminal convictions.

What should I do?

1. Get a copy of your record from whatever court your case was heard, including all juvenile delinquency adjudications. Try to get copies of police reports, a criminal history background check, or your “rap sheet.” Many states already have systems for you to collect your criminal history. In many cases, you can find it on your local county website or state government websites. Make sure you get them from all states where you believe you may have been arrested or convicted.

2. Meet with a nonprofit organization, an immigration attorney or advocate **experienced in deportation defense or the immigration consequences of criminal convictions.** Make sure they review all your arrest information and criminal conviction documents. Do NOT consult “Notarios.”