



Written by [Raven Clabough](#) on December 4, 2014

States Sue Obama Administration Over Executive Order on Immigration

Seventeen states have decided to pursue a lawsuit against the Obama administration over President Obama's issuance of an executive order that would ease the threat of deportation for millions of illegal immigrants. The lawsuit was filed on Wednesday and named the top immigration enforcement agencies as defendants.



Reuters reports, "The case being led by Texas and filed at the Federal Court in the Southern District of Texas said the executive order announced by Obama last month violated constitutional limits on presidential powers. Texas Attorney General Greg Abbott, a Republican and the Texas governor-elect said the lawsuit is not asking for monetary damages but is seeking to have the order declared illegal."

The federal lawsuit involves the following states: Alabama, Georgia, Idaho, Indiana, Kansas, Louisiana, Maine, Mississippi, Montana, Nebraska, North Carolina, South Carolina, South Dakota, Texas, Utah, West Virginia, and Wisconsin.

North Carolina Governor Pat McCrory said his state joined the effort because "the president has exceeded the balance of power provisions clearly laid out in the U.S. Constitution."

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Obama's plan, announced November 20, would apply to up to 4.7 million of the estimated 11 million illegal immigrants in the country, including approximately 4.4 million who are parents of U.S. citizens and legal permanent residents.

According to the White House, the executive order falls within his presidential powers, despite the fact that under the U.S. Constitution, only the Congress makes laws. "The Supreme Court and Congress have made clear that federal officials can set priorities in enforcing our immigration laws, and we are confident that the President's executive actions are well within his legal authorities," a White House official told Fox News.

But Abbott contends, "The President is abdicating his responsibility to faithfully enforce laws that were duly enacted by Congress and attempting to rewrite immigration laws, which he has no authority to do." During a news conference in Austin, Texas, Abbott declared that Obama's actions "directly violate the fundamental promise to the American people" by ignoring the Constitution.

"The ability of the president to dispense with laws was specifically considered and unanimously rejected at the Constitutional Convention," Abbott added.



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Outgoing Texas Governor Rick Perry (shown above) states that the president's executive orders have been detrimental in enforcing immigration laws, pointing to Obama's 2012 executive order that delayed the deportation of children brought illegally into the United States by their parents. Perry states that it led to an unprecedented wave of unaccompanied minors and families crossing into the United States. "In effect, his action placed a neon sign on our border, assuring people that they could ignore the law of the United States," said Perry, who has deployed up to 1,000 National Guard troops to the border.

The lawsuit raises three specific objections: Obama is violating the Constitution's "Take Care Clause," which states that the president "shall take care that the laws are faithfully executed"; the executive branch is acting in violation of rulemaking procedures; and the executive order will "exacerbate the humanitarian crisis along the southern border."

"This lawsuit is not about immigration. It is about the rule of law, presidential power and the structural limits of the U.S. Constitution," the governors said in their 75-page complaint.

The lawsuit highlights a claim made by President Obama last week:

"In this case, the president admitted that he 'took an action to change the law.' The defendants could hardly contend otherwise because a deferred action program with an acceptance rate that rounds to 100 percent is a de facto entitlement — one that even the president and OLC previously admitted would require a change to the law," the challengers said in their complaint.

As reported by Fox News, Wednesday's announcement of the lawsuit marks the 31st time the Texas Attorney General has brought action against the federal government since 2009.

The lawsuit is just one approach that the states may undertake to derail the president's intent to rule by executive decree on immigration. Another approach would be for each state to enact and enforce its own immigration laws, and to nullify any unconstitutional federal overreach interfering with these laws.

On Capitol Hill, lawmakers are considering using a spending bill as leverage to defund the immigration initiatives. House Speaker John Boehner is hoping, however, to hold off on that until next year, when Republicans will control both chambers. But on December 1, when asked whether President Obama would veto a funding bill that did not provide funds for his executive action on immigration, White House Press Secretary Josh Earnest responded in the affirmative.

Until 2015, the *Washington Times* reports that an omnibus bill will fund most of the government until the end of the year once current spending expires on December 11, and a separate short-term spending bill will keep the Department of Homeland Security open until next year. Senate Majority Leader Harry Reid has agreed to this approach.

In the meantime, the Republican House is prepared to vote Thursday on a bill by Rep. Ted S. Yoho, Florida Republican, that would declare the president's action void, though the bill will not get a vote in the Democrat-run Senate. The vote is meant to be a strictly a symbolic gesture. The Department of Homeland Security has already begun preparing for Obama's amnesty initiative by posting 1,000 job openings one day after the president's announcement.

"USCIS is taking steps to open a new operational center in Crystal City, a neighborhood in Arlington, Virginia, to accommodate about 1,000 full-time, permanent federal and contract employees in a variety of positions and grade levels," the agency said in an internal e-mail to employees on Monday. "The initial workload will include cases filed as a result of the executive actions on immigration announced



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on Nov. 20, 2014.”

The agency has announced it has space for hundreds of new employees at a new location in Arlington, Virginia, which for some indicates that the agency had already made these plans even before Obama’s announcement.

Ken Palinkas, head of the labor union representing USCIS employees, said that the large scale hiring and new office space suggests that these plans have been in place for months before Obama’s November 20 announcement.

“It’s so orchestrated it’s pathetic,” he said.

Sen. Jeff Sessions, an Alabama Republican who has been outspoken in his criticism of Obama’s immigration policy, said the new facility in Virginia is “a clear symbol of the president’s defiance of the American people, their laws and their constitution.”

“He is hiring federal employees to carry out a directive that violates the laws Congress has passed in order to foist on the nation laws Congress has repeatedly refused to pass,” Sessions opined.

Many of the job openings have already expired, indicating the positions have been filled. The agency said on Wednesday, “Increasing staffing will ensure that every case received by USCIS receives through review under our guidelines.”

And all this is at a significant cost to the taxpayers. The *Washington Times* writes, “Even though Mr. Obama said his policy is temporary, U.S. Citizenship and Immigration Services is hiring the employees for permanent positions, at salaries of up to \$157,000 a year, according to the job postings listed on the official federal jobs website.”

Photo of Gov. Rick Perry: AP Images



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