WHAT TEXAS DACA HOLDERS NEED TO KNOW
SEPTEMBER 30, 2025

⚠️ **Important:** This is a proposed plan filed September 29, 2025. The court must approve it before it takes effect. Rules may still change. This information is not legal advice – consult with a qualified immigration attorney about your individual situation.

QUICK SUMMARY OF PROPOSED USCIS PLAN

✅ **Renewals:** Still processed nationwide. Work permits and lawful presence continue for now.
❌ **New DACA applicants in Texas:** Approved deferred enforcement, but No work permit, no lawful presence
⚠️ **Unlawful presence risk:** Texas DACA holders could start accruing unlawful presence if they don't have an EAD
📍 **Address matters:** Moving in or out of Texas changes your benefits.
⏳ **Not final yet:** Court approval is required before this takes effect.

BACKGROUND

Yesterday, the federal government filed a plan detailing how it will carry out a recent court decision reshaping DACA (Deferred Action for Childhood Arrivals) in Texas. The filing follows months of mounting threats to the program, including a July 2025 order from U.S. District Judge Andrew Hanen directing the government to spell out how DACA could function under geographic limits.

For now, DACA renewals continue to be processed nationwide, but new applications have been frozen since 2021, leaving hundreds of thousands of Dreamers in legal limbo. **What's new is the government's blueprint for a split system: in Texas, DACA will operate under different rules than in the rest of the country.**

This proposed two-track approach stems from a Fifth Circuit ruling earlier this year, which found that only Texas had shown evidence of harm from DACA. As a result, **the new rules apply solely to Texas residents.** The latest filing explains how federal officials intend to enforce this geographic divide, effectively creating one DACA system for Texas and another for everywhere else.

WHAT THIS COULD MEAN FOR YOU

IF YOU LIVE IN TEXAS:

- **For people who are applying for DACA for the first time or after having been out of DACA status for a year or more:**
  - You can still apply for DACA and may have your application approved
  - **However, you would NOT receive work authorization (employment authorization document/EAD)**
  - You would NOT be considered "lawfully present" under federal regulations
  - Your deferred action status would be "forbearance only" - meaning immigration enforcement would be deferred, but without the usual benefits

- **For current DACA holders who got DACA before July 16, 2021:**
  - You are currently protected by a "partial stay" which means that your status remains unchanged for now
  - **If that stay is lifted**, your work permit could be revoked
  - You would receive 15 days' notice and a chance to respond before any revocation

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WHAT THIS COULD MEAN FOR YOU

IF YOU LIVE IN TEXAS:

- **For current DACA holders seeking renewal:**
  - FOR NOW, while the partial stay is in effect, all renewal applications continue to be processed normally regardless of where you live. You will receive a work permit, just as you have in the past and you are lawfully present.
  - If the stay is lifted, Texas DACA renewal applicants would receive only deferred enforcement action and no employment authorization. DACA holders in Texas would then begin accruing unlawful presence again.

WHAT IT MEANS TO NOT BE "LAWFULLY PRESENT"

One of the most significant impacts of this potential new plan is that DACA recipients in Texas would NOT be considered "lawfully present" under federal regulations (8 C.F.R. § 1.3(a)(4)(vi) and 8 U.S.C. § 1182(a)(9)) anymore. This is a critical issue with severe consequences.

The 3-year and 10-year bars in immigration law:

- **3-year bar:** If you stay in the U.S. for more than 6 months but less than one year without lawful presence and then leave the U.S., you're barred from returning for 3 years
- **10-year bar:** If you stay for more than one year without lawful presence and then leave the U.S., you're barred from returning for 10 years

Right now, DACA recipients have protection under 8 C.F.R. § 236.21(c)(4) and time with DACA does NOT count toward the 3/10-year bars. The federal government's proposal would change that for Texas DACA holders.

What are the potential changes to "lawful presence" for Texas DACA holders:

The government's filing proposes to **sever and vacate** this protection specifically for Texas residents. This means:

⚠️ **Time you spend in Texas with this new bifurcated DACA (deferred action without an EAD) could potentially count as "unlawful presence"**

⚠️ **This unlawful presence time could trigger the 3-year or 10-year bar if you ever leave the U.S.**

⚠️ **Even one day of international travel, without advance parole, could lock you out of the country for 3 or 10 years or require a waiver for re-entry.**

Even if you qualify for a green card later (through marriage to a U.S. citizen, job sponsorship, or immigration reform), you may have to leave the U.S. and process through a consulate abroad. If you've accrued more than 6 months of unlawful presence, you will need an unlawful presence waiver which will add an additional delay to your progress towards a green card.

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How The Potential Loss of "Lawful Presence" Could Affect Your Daily Life in Texas:

- 🚗 **Driver's License** - You will not be able to get or renew a Texas Driver's License without lawful presence.
- 🎓 **In-State Tuition** - Court ruling in June 2025 says that students without lawful presence cannot get in-state tuition at Texas colleges and universities.
- 🏥 **Health Insurance** - Certain programs require lawful presence.
- 💼 **Professional Licensing** - May affect careers requiring a license if that license depends on lawful presence.
- 💳 **Financial Services** - Some financial institutions will only approve loans or accounts to people with lawful presence.

ADDRESS CHANGES AND EFFECTS OF MOVING

YOU MUST REPORT ADDRESS CHANGES

Federal law requires you to report any change of address to USCIS within **10 days** of moving. This is critical because:

- Under the current administration, not updating your address could subject you to criminal penalties
- Your eligibility for DACA benefits could be based on your **current address on file with USCIS** if this plan goes Into effect.
- USCIS will be sending out reminders about this requirement
- If you move to or from Texas, your DACA benefits could change

If you move TO Texas (and this plan goes into effect):

- Your work authorization may be revoked after you update your address
- You'll receive a "Notice of Intent to Revoke" with 15 days to respond
- Your deferred action status itself won't be terminated, but you'll lose work authorization and lawful presence status

If you move OUT of Texas (and this plan goes into effect):

- You can apply for a work permit (Form I-765) for the remainder of your DACA approval period
- Your benefits would be restored
- Your work authorization is valid for work nationwide—even in Texas. This means that if your work involves travel to Texas, work with or for a Texas company, you have no reason to worry and can continue to work in the state with your DACA work permit. However, if you *reside* in Texas, your work permit could be revoked.

TECHNICAL DETAILS

FILING FEES UNDER THE PROPOSAL

- If you live in Texas and apply for initial DACA, USCIS would accept your I-821D application, but would not accept an application for a work permit (Form I-765)
- If you had already paid the I-765 fee and live in Texas, it would be refunded

WHAT THIS PROPOSAL DOES NOT CHANGE

- DACA remains available nationwide for renewals (while the partial stay is in effect)
- The underlying DACA program and regulations from 2022 remain in effect
- This would only be about WHERE you live, not your eligibility for DACA itself

Texas Immigration LAW COUNCIL

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WHAT YOU SHOULD DO IF THIS PLAN GOES INTO EFFECT

1. **Make sure your address is current with USCIS** - update it immediately if you've moved
2. **Watch for communications from USCIS** about these changes
3. **If you're planning to move**, understand how it could affect your DACA status
4. **Keep copies of all documents** showing your address and DACA status
5. **Consider consulting with an immigration attorney** about your specific situation to explore any alternative immigration relief available to you.

FREQUENTLY ASKED QUESTIONS (FAQ) BELOW

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FREQUENTLY ASKED QUESTIONS (FAQ)

Q: I live in Texas. Are they going to revoke my DACA now?
A: No. If you already have DACA and a work permit, nothing changes immediately. The government's plan says that current Texas DACA holders are protected by the *partial stay*. If that stay is ever lifted, your work permit could be revoked – but you would receive written notice and 15 days to respond before that happens.

Q: When will the emergency (partial) stay be lifted?
A: We don't know yet. The stay remains in place until the courts decide otherwise. The September 29, 2025 filing only lays out the government's plan for what happens *if* the stay is lifted. The court still has to approve this plan, so the timeline is uncertain.

Q: Should I move out of Texas?
A: This is a personal and legal decision that depends on your situation. Under the government's proposal:

- Moving **out of Texas** would restore your ability to apply for and keep a work permit and lawful presence.
- Moving **into Texas** could cause you to lose your work permit and lawful presence.

Because moving has serious consequences, you should talk with an immigration attorney before making any decisions.

Q: I'm applying for DACA for the first time in Texas – what will happen if this plan goes into effect?
A: USCIS will accept your DACA application, but you will **not** get a work permit and you will **not** be considered lawfully present. You would only have protection from deportation ("forbearance").\

Q: If I lose "lawful presence" in Texas but still have deferred action, can I be detained or deported? What about CBP checkpoints inside Texas? Can I safely travel through them?
A: Under the government's plan, you would still have **deferred action**. This means immigration enforcement against you is officially deferred – you should not be placed in removal proceedings or deported while your DACA is active.
However:

🚫 You would **not** have a work permit.
🚫 You would **not** be considered "lawfully present" for purposes of driver's licenses, tuition, or other benefits.
⚠️ Deferred action is not the same as legal status – it is temporary and discretionary.

At CBP internal checkpoints (like those in South or West Texas):

- If you still have a valid DACA approval notice, you can present that as proof that you are in deferred action status.
- But because you will no longer have lawful presence under the new Texas-only rules, there is a risk of confusion or additional questioning.

Q: Does this change anything for renewals outside Texas?
A: No. Renewals filed outside Texas remain the same – work permits and lawful presence continue under current rules.