

113TH CONGRESS  
2D SESSION

# S. 3015

To establish a rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2014

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To establish a rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing Executive  
5 Overreach on Immigration Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress finds following:

8 (1) Under article I, section 8, of the Constitu-  
9 tion, Congress has the power to “establish an uni-  
10 form Rule of Naturalization”. As the Supreme Court

1 held in *Galvan v. Press*, “the formulation of . . .  
2 policies [pertaining to the entry of aliens and their  
3 right to remain here] is entrusted exclusively to Con-  
4 gress has become about as firmly imbedded in the  
5 legislative and judicial tissues of our body politic as  
6 any aspect of our government”.

7 (2) Under article II, section 3, of the Constitu-  
8 tion, the President is required to “take Care that  
9 the Laws be faithfully executed”.

10 (3) Historically, executive branch officials have  
11 legitimately exercised their prosecutorial discretion  
12 through their constitutional power over foreign af-  
13 fairs to permit individuals or narrow groups of non-  
14 citizens to remain in the United States temporarily  
15 due to extraordinary circumstances in their country  
16 of origin that pose an imminent threat to the indi-  
17 viduals’ life or physical safety.

18 (4) Prosecutorial discretion generally ought to  
19 be applied on a case-by-case basis and not to whole  
20 categories of persons.

21 (5) President Obama has stated at least 22  
22 times in the past that he can’t ignore existing immi-  
23 gration law or create his own immigration law.

24 (6) President Obama’s grant of deferred action  
25 to more than 4,000,000 unlawfully present aliens, as

1 directed in a memorandum issued by Secretary of  
2 Homeland Security Jeh Charles Johnson on Novem-  
3 ber 20, 2014, is without any constitutional or statu-  
4 tory basis.

5 **SEC. 3. PROHIBITION ON UNILATERAL DEFERRAL OF DE-**  
6 **PORTATIONS BY THE EXECUTIVE BRANCH.**

7 (a) IN GENERAL.—Notwithstanding any other provi-  
8 sion of law, the executive branch of the Government shall  
9 not—

10 (1) exempt or defer, by Executive order, regula-  
11 tion, or any other means, categories of aliens consid-  
12 ered under the immigration laws (as defined in sec-  
13 tion 101(a)(17) of the Immigration and Nationality  
14 Act (8 U.S.C. 1101(a)(17))) to be unlawfully  
15 present in the United States from removal under  
16 such laws;

17 (2) treat aliens described in paragraph (1) as if  
18 they were lawfully present or had a lawful immigra-  
19 tion status; or

20 (3) treat such aliens other than as unauthorized  
21 aliens (as defined in section 274A(h)(3) of the Im-  
22 migration and Nationality Act (8 U.S.C.  
23 1324a(h)(3))).

24 (b) EXCEPTIONS.—Subsection (a) shall apply ex-  
25 cept—

1 (1) to the extent prohibited by the Constitution;

2 (2) upon the request of Federal, State, or local  
3 law enforcement agencies, for purposes of maintain-  
4 ing aliens in the United States to be tried for crimes  
5 or to be witnesses at trial; or

6 (3) for humanitarian purposes in which the  
7 aliens are at imminent risk of serious bodily harm  
8 or death.

9 (c) EFFECT OF EXECUTIVE ACTION.—Any action by  
10 the executive branch with the purpose of circumventing  
11 the objectives of this section shall be null and void and  
12 without legal effect.

13 (d) EFFECTIVE DATE.—This section shall—

14 (1) take effect as if enacted on November 20,  
15 2014; and

16 (2) apply to requests (regardless of whether the  
17 request is original or for reopening of a previously  
18 denied request) submitted on or after such date  
19 for—

20 (A) work authorization; or

21 (B) exemption from, or deferral of, re-  
22 moval.

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