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# Is the “Kids Act” Amnesty Really Just for Kids? Probably Not

By Jon Feere

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For months, some Republicans in the House of Representatives have been promising to introduce immigration legislation that would legalize a significant portion of illegal aliens living in the United States. Though no text has been released, one of the more high-profile GOP proposals is known as the Kids Act, an amnesty that would provide legal status to an as yet unknown number of presumably younger illegal aliens.

Many questions about how the Kids Act might operate remain unanswered. But if the amnesty is similar to the often-introduced but always-rejected Development, Relief, and Education for Alien Minors (DREAM) Act, it may contain a number of problematic provisions that raise the following questions:

**1. Will the Kids Act Amnesty Only Benefit Minors?** Advocates of the DREAM Act and the Kids Act sell their amnesty by focusing entirely on sympathetic young children. But even though the “M” in the acronymous DREAM Act stands for “Minors”, the amnesty has never been limited to people 17 years of age or younger and most beneficiaries would, in fact, be adults. While some versions of the DREAM Act restricted recipients to illegal aliens under age 35, the most recent version had no upper age limit. But advocates know that infants and toddlers make for better marketing and so children are exploited in the push to legalize millions of adult illegal aliens who are legally and morally culpable of various [immigration-related crimes](#).

The age of initial entry is also an issue. While an infant has certainly not begun to identify with a nationality, teenagers certainly identify with their homelands and have embraced their languages and cultures, not least through attending school there for many years. In other words, their identities have already been formed. To suggest that such individuals “know no other home than the United States”, [as amnesty advocates do](#), is simply not accurate for those who enter illegally at an older age.

It is possible that the Kids Act will only benefit minors, but if it involves dishonest marketing it will make the amnesty a tough sell. Thus far, the proposal sounds like it is being designed to convert President Obama’s lawless Deferred Action decree — which legalizes illegal aliens as old as 30 — into actual law. Instead of going after Obama for making an end run around Congress and the Constitution, the GOP is apparently following his lead, thereby encouraging similar lawlessness in the future.

**2. Do Applicants Actually Have to Have Been Brought Here?** Advocates of the DREAM Act and the Kids Act routinely argue for legalizing illegal aliens who were “brought” to the United States, which suggests they know there is a legal and moral difference between a child who was carried across on his parent’s shoulders and a person who walks across the border or overstays a visa on his own volition.

Rep. Eric Cantor (R-Va.), the chief architect of the Kids Act, has explained that the eligible applicants will be people who have “been brought here as a minor”. Cantor’s communications director [reiterated](#) that the amnesty is “for those who were brought to this country as children”. Speaker John Boehner also supports the proposal, explaining that it is “about basic fairness” and that “these children were brought here of no accord of their own.”

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Children who are actually brought to the United States through no fault of their own are a sympathetic group. But despite constant use of this “brought” language by advocates and journalists, no version of the DREAM Act, nor Obama’s Deferred Action decree, includes any language requiring applicants to prove they were actually brought to the United States (i.e. prove they are not legally or morally culpable).

It is not uncommon for teenagers to come across the border illegally on their own, often as gang members or as part of the drug trade. According to Joe Garcia, assistant special agent in charge of ICE investigations, youths [are caught](#) with methamphetamine strapped to their bodies several times a week in the San Diego border region, and a [recent report](#) about a 16-year-old Mexican smuggler highlights the problem. Also recently, U.S. Border Patrol agents [arrested](#) six Mexicans — two adults, two 17-year-olds, a 16-year-old, and a 12-year-old — smuggling more than 300 pounds of marijuana into Texas. Many involved in such activity are never caught and, since they consequently do not have an arrest record, may be able to legalize under the Kids Act amnesty, Deferred Action, and the DREAM Act.

Rep. Steve King (R-Iowa) countered that even when a parent brings a child into the country illegally, it is “not a reason to sacrifice the rule of law.” King explained, “All of us, our parents did a lot of right things, and they made some mistakes. We’re the beneficiaries of our parents’ good decisions and we pay the price of our parents’ bad decisions. So why would we exempt a class of people for that?” As an example, children are not allowed to stay in a home if the bank forecloses because their parents haven’t paid the mortgage.

Cantor argues that supporting the Kids Act is “an issue of decency, of compassion”. This may be true, but only if it benefits people who were actually “brought” here. Americans do not have much compassion for law-breakers who willingly violate our sovereignty.

**3. Will the KIDS Act Help Lawbreaking Parents Stay in the Country?** If advocates of the Kids Act recognize a legal and moral difference between a young child who is actually brought here and a person who knowingly violates U.S. law, then logically these advocates would be opposed to granting legal status to the culpable parents responsible for bringing children into the country illegally. It would seem that the advocates would require the deportation of the parent as a prerequisite for the child receiving amnesty. Anything less would amount to the parent also receiving amnesty, rendering pointless the entire discussion about moral and legal culpability of the children.

The immediate reaction by some would be to point out that legalizing the child while deporting the parent is akin to “breaking up families”, a refrain often uttered by advocates of larger, more comprehensive amnesty bills. But depending on the age cutoffs noted earlier, it may be that these “children” are actually adults. Those opposed to deporting the lawbreaking parents will sell the image of a toddler being ripped from his parent’s arms, but depending on the language of the Kids Act, it may be that the more likely scenario is a 30-year-old being told his parents have to return home in accordance with federal law. In either case, children are always free to move back with their parents; their own decision to obtain the amnesty and stay in the United States despite their parents’ repatriation should not be considered a moral defect on the part of American citizens.

The Kids Act is what creates this politically dicey situation. Under current law, all illegal aliens are to be returned home, regardless of their age. If politicians want to legalize some and deport others, they have to be willing to defend it. Likely, advocates of such a policy will eventually fold under pressure from the pro-amnesty media and activist groups and extend legal status to any illegal alien who has a child, expanding this amnesty even further. The discussion of moral and legal culpability of children having served its purpose, it would be abandoned, and advocates would be reduced to arguing that allowing all foreigners to violate our sovereignty — children, adults, and parents — is somehow morally justifiable.

In any event, once illegal immigrant children are given legal status the Obama administration will make the parents a low-priority for deportation anyhow, even though some are technically human traffickers. In fact, the Department of Homeland Security (DHS) is already [delivering smuggled children](#) caught at the U.S. border to their illegal immigrant parents already inside the United States who paid for the child to be smuggled. In a sense, DHS is part of the smuggling operation. To suggest that the Obama administration would deport a parent after their child is legalized through the Kids Act is foolhardy. Legalization for children will almost certainly lead to a permanent stay in the United States for parents.

Depending on the language of the Kids Act, it is very possible that everyone involved would be receiving amnesty: those who were brought here “through no fault of their own” and those who can be faulted for creating the situation in the first place.

**4. How Many Illegal Aliens Will Benefit?** If the DREAM Act and Obama's lawless Deferred Action program are any guide, the Kids Act amnesty has the potential to benefit a large number of illegal aliens. It is [estimated](#) that 2.1 million illegal aliens are (or would eventually be) eligible for at least one version of the DREAM Act, while [nearly](#) 1.8 million illegal aliens are (or would eventually be) eligible for Deferred Action. (More than 500,000 [have already benefitted](#) from the Deferred Action amnesty.) These numbers approach the size of the approximately 2.7 million illegal aliens legalized under the large-scale 1986 amnesty, the Immigration Reform and Control Act.

The estimates of how many illegal aliens would legalize through the DREAM Act and Deferred Action assume no fraud. It is [estimated](#) that 700,000 amnesty recipients in 1986 acquired legal status through fraud. If the fraud rates in the DREAM Act, Deferred Action, and the Kids Act are similar to the fraud experienced in 1986, the total number of people legalizing under these modern amnesties may be larger than the total legalized under the 1986 amnesty.

Put another way, the Kids Act may be a larger amnesty than IRCA. This is particularly true if the parents of Kids Act beneficiaries are also able to legalize through the program.

It is also important to remember that an amnesty operates alongside existing immigration law and will be shaped according to existing law. For example, when a U.S. citizen reaches the age of 18 he can sponsor an overseas spouse and unmarried children of his own for legal status inside the United States. When he turns 21, he can also sponsor his parents and any brothers and sisters. Granting citizenship to illegal aliens through the Kids Act would likely result in significant additional chain migration not necessarily contemplated by the authors of the original amnesty.

If Kids Act beneficiaries are already 18 or 21 when they legalize, as will probably be the case for most of them, their families will be instantly eligible for entry into the United States because of existing law. If they are younger, then the fallout from the amnesty may not be felt for a period of years. This is why a long-term analysis of the impact of an amnesty is always important.

Amnesties also always create new illegal immigration. The DREAM Act and Obama's Deferred Action require illegal aliens to prove they were in the country by a certain date, which, assuming no fraud, serves the purpose of preventing new illegal aliens from applying. Yet without better enforcement of immigration laws, more illegal aliens will come to the United States in the future, hearing that the United States is willing to give out citizenship to those who enter illegally. The presence of this new illegal immigrant population will lead to calls for more amnesties down the road. That is why a stand-alone amnesty that contains no new enforcement provisions is never a good idea if the goal is to reduce the illegal alien population.

**5. Will the Kids Act Contain Any Enforcement Measures?** A key issue that may determine support for the amnesty is whether it contains enforcement measures designed to prevent the growth of a new illegal population and consequent calls for yet another amnesty. In other words, the bill needs to do more than legalize illegal aliens; it needs to help solve the problem of illegal immigration.

An E-Verify mandate requiring all businesses to electronically verify that new hires are in the country legally might make an amnesty like the Kids Act less likely to serve as the catalyst for future illegal immigration and thus more palatable to those inclined to support America's sovereignty. Coupling the Kids Act with a pro-enforcement bill like the [Strengthen and Fortify Enforcement \(SAFE\) Act](#) might also make the idea of legalizing a portion of the illegal alien population more likely to garner public support.

To be effective, however, any new enforcement provisions would have to actually be enforced. President Obama's willingness to [narrow the scope of immigration enforcement](#) may sink any proposal like the Kids Act; the administration has created many reasons to be skeptical that any enforcement provisions included in the proposal will ever see the light of day.

To ensure that the enforcement materializes, those provisions would have to be fully implemented, fully litigated, and fully operational before any portion of the amnesty kicks in. This is the only way to make sure that the White House has the incentive to carry out the enforcement provisions.