

A LOOK AT SB 1070 AND STATE-LEVEL IMMIGRATION EFFORTS

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SB1070 is bad for states, communities and immigrants. The impact of the legislation is far reaching and has the potential to adversely impact the long-term financial stability of states. Disparate immigration efforts at the state and local levels underscore the need for comprehensive immigration reform at the federal level to provide a floor for the protection of undocumented individuals and create a clear pathway to citizenship.



INCLUSION.

In 2010, Arizona passed SB 1070, an immigration reform bill that criminalizes undocumented individuals and allows local law enforcement to demand immigration documents from anyone they suspect to be undocumented.¹ These measures have far-reaching implications for immigrant women and their families, compromise the fiscal health of states, and place undue strain on local law enforcement. Since SB 1070 passed, over 30 states have attempted to pass similar measures. These efforts, however, have been overwhelmingly unsuccessful with only Georgia and Utah passing similar legislation.

Efforts to pass anti-immigration legislation at the state level underscore the need for comprehensive federal immigration reform. In the absence of federal action on immigration, states are likely to continue to introduce measures that threaten the civil rights and liberties of undocumented immigrants over the next few months and leading into the 2012 election cycle.

This brief explores how SB 1070 and copycat legislation impact immigrant women and families, state economic solvency, and public safety and trust. It also highlights state efforts to enact positive immigration reform in the absence of federal action.

The Impact of SB 1070 and Similar Legislation on Civil Liberties and Immigrant Women and Families

Policies such as SB 1070 erode worker protections and the civil rights of undocumented immigrants. Undocumented workers contributed over \$11 billion in state and local taxes last year and even more through local spending.² Despite these contributions, undocumented workers often work in unsafe conditions and are at far greater risk of workplace abuse, injuries or death.³

Over 80 percent of undocumented workers are employed in low-wage occupations, such as farm labor, cleaning, construction, and production labor.⁴ These jobs tend to have little job security, offer few benefits and are unlikely to be regulated by federal or state work standards. SB 1070 and similar legislation discourage undocumented immigrants from speaking out against abuse in the workplace or unsafe working conditions, due to heightened threats of deportation or criminal prosecution.

Increased Racial Profiling of Racial and Ethnic Minorities

Racial profiling is a discriminatory practice where law enforcement officials target individuals for criminal suspicion based on the individual's race, ethnicity, national origin or religion.⁵ Statistics show that racial and ethnic minorities are more likely to experience racial profiling than whites. While white, Black and Latino drivers are stopped by police at similar rates, Blacks and Latinos are far more likely than whites to be searched.⁶ Blacks are also more than twice as likely as whites to be arrested when stopped during traffic stops.⁷

Legislation such as SB 1070 institutionalizes the practice of racial profiling and gives unprecedented power to local law enforcement agents to stop and search citizens who they believe to be undocumented. To date, there are few guidelines or training provided to law enforcement to ensure that the civil rights and liberties of individuals are protected when implementing SB 1070.⁸

The Impact of SB 1070 on Immigrant Women

A major component of SB 1070 requires that individuals without documentation be detained and deported, regardless of family or community ties. As such, SB 1070 will have a detrimental impact on women and children by separating mothers from their children and discouraging victims of violence from reporting abuse.

Currently, 5.5 million children have at least one parent that is an undocumented immigrant⁹ and between 1998 and 2007, over 100,000 undocumented parents of U.S. citizen children were deported.¹⁰ Children separated from their mothers or primary care giver are either forced into the care of the state or forced to be deported along with their mothers or primary care givers, even if the children are U.S. citizens.

When authorities forcibly detain mothers or caretakers, and separate them from their children it often causes severe trauma to families and has a lasting impact.¹¹ In some instances, U.S. born children are taken from parents and placed in foster care in violation of the parent's right to custody of their children.¹² SB 1070 and similar legislation fail to adequately support family reunification efforts following the separation or deportation of a family member.

For immigrant women, laws such as SB 1070 will reduce the likelihood that they will report abuse or violence at the hands of partners, employers or family members out of fear of deportation or criminal prosecution. Many immigrant women may also lack financial resources, basic safety nets and language proficiency to navigate the complex criminal legal system to prosecute a crime and pursue their right to stay in the country.¹³

Currently, less than 20 percent of undocumented women who are victims of violence seek help from law enforcement, compared to more than half of women who are victims of violence in the general population.¹⁴ Immigrant women living in Arizona have testified to the increased harassment and abuse following the passage of SB 1070.¹⁵ This number is almost certain to decrease with the implementation of SB 1070 and copycat bills.

The Impact of SB 1070 and Similar Legislation on State Fiscal Solvency

The cost to states of implementing SB 1070 and copycat legislation is significant. In a time when states are struggling to make ends meet and provide services to constituents, assuming the additional financial burden of SB 1070 is fiscally irresponsible. In the year since Arizona enacted SB 1070, boycotts alone are projected to cost the state \$752 million. A recent study by The National Council of La Raza (NCLR) finds that enacting SB 1070 will also result in losses of:¹⁶

- \$17 million in tax revenue due to declines in tourism spending and employment;
- \$1.5 million in legal fees to unsuccessfully defend the law;¹⁷ and
- \$250,000 transferred to the Arizona Office of Tourism for a marketing campaign to improve the state's negative image.

Similarly, when SB 1070 copycat legislation was introduced in the state of Kentucky, the fiscal impact of the legislation was estimated to be \$89 million.¹⁸ SB 1070 and similar bills are fiscally unsound and imposes fiscal burdens on states and taxpayers at a time when states are suffering record budget deficits and cutting programs and services.

The Impact of SB 1070 and Similar Legislation on Local Law Enforcement Services and Public Safety

One of the more controversial aspects of SB 1070 and similar legislation is the power given to local law enforcement to enforce federal immigration policies. Three states—Arizona, Georgia¹⁹ and Utah²⁰—have adopted policies that require local law enforcement to enforce federal immigration policies. Georgia and Arizona both allow local law enforcement to ask for proof of citizenship of anyone they suspect to be undocumented.

Under SB 1070 and similar legislation, local law enforcement agents must not only maintain law and order, but also act as federal immigration officials. This dual role erodes trust between law enforcement and communities and dissuades individuals from reporting crimes or abuses, as local law enforcement officials may now be viewed as immigration agents. Local law enforcement agencies depend heavily on community trust and cooperation to help keep communities safe.²¹

There are also very few standards and procedures in place to ensure that local law enforcement agents are following the law and protecting citizens when implementing this type of legislation. During the debate over SB 1070, local law enforcement officials in opposition of the bill stated that it would not only strain their already limited budgets and human resources, but that local law enforcement is not trained to deal with immigration enforcement.²²

Conclusion and Recommendations

SB 1070 is bad for states, communities and immigrants. The impact of the legislation is far reaching and has the potential to adversely impact the long-term financial stability of states. Disparate immigration efforts at the state and local levels underscore the need for comprehensive immigration reform at the federal level to provide a floor for the protection of undocumented individuals and create a clear pathway to citizenship.

In the absence of federal legislation, states should continue to oppose SB 1070 copycat legislation and introduce positive immigration legislation that take into account the contribution of immigrants to states and communities. The states of Maryland, New York and Illinois have implemented or introduced policies to support immigrant families and communities. Specifically, they propose the following policies:

- On April 12, 2011, Maryland passed SB 167²³, the “Maryland DREAM Act,” which allows undocumented individuals to qualify for in-state tuition and public schools of higher education in the state. The Governor is expected to sign the bill making Maryland the 11th state in the nation to allow undocumented students to pay in-state tuition rates.
- On March 21, 2011, New York introduced its own version of the DREAM Act with S4179²⁴, which provides undocumented youth with access to state financial aid programs, NYS identification or drivers’ licenses, employment opportunities and health insurance.
- On February 15, 2011, Illinois introduced SB 2185²⁵, which establishes a scholarship fund for undocumented students and allows them to receive driver’s certificates.

While continuing to defeat anti-immigration policies and advancing positive immigration reform at the state level are priorities, advocates must continue to press for comprehensive federal immigration reform. In particular, Congress should pass:

- The federal DREAM Act to provide a pathway to citizenship for all young adults.
- The Protect our Workers from Exploitation and Retaliation (POWER) Act and the Agricultural Job Opportunities, Benefits, and Security Act (AgJOBS) to provide workplace protection against exploitation and ensure adequate health and safety measures.
- The Uniting Families Act to allow citizens to sponsor their same-sex partners.

Enacting these policies would provide protection, opportunity, and support to immigrant communities and honor the contribution immigrants make to our economy and communities.

- ¹ *Senate Bill 1070*, available at <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf> (last accessed April 21, 2011).
- ² Immigration Policy Center, *Unauthorized Immigrants Pay Taxes, Too*, available at <http://www.immigrationpolicy.org/just-facts/unauthorized-immigrants-pay-taxes-too> (last visited April 26, 2011).
- ³ AFL-CIO, *Immigrant Workers at Risk*, available at http://www.aflcio.org/aboutus/laborday/upload/immigrant_risk.pdf (last accessed April 25, 2011).
- ⁴ Lin, Sharat G., *Undocumented Immigrants in the United States: From Impoverishment to May Day Resurgence*, available at <http://www.sanjosepeace.org/fmd/files/SGLin%20-%20Ch10%20-%20Undocumented%20immigrants%20in%20US%20-%202009.pdf>, p. 16 (last accessed April 21, 2011).
- ⁵ American Civil Liberties Union, *Racial Profiling: Definition*, available at <http://www.aclu.org/racial-justice/racial-profiling-definition>, (last accessed April 28, 2011).
- ⁶ U.S. Department of Justice, Bureau of Justice Statistics, *Contacts between Police and the Public, 2005* available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cppo5.pdf> (last accessed April 27, 2011).
- ⁷ *Ibid.*
- ⁸ Arizona Daily Star, *Racial profiling, SB 1070 will go hand in hand*, available at http://azstarnet.com/news/opinion/editorial/article_a10573e6-03dd-5c13-b345-a84a74fb47ed.html, (last accessed April 26, 2011).
- ⁹ Legal Momentum, *Immigrant Women and Children*, available at <http://legalmomentum.typepad.com/blog/immigrant-women-and-children/> (last accessed April 26, 2011).
- ¹⁰ Legal Momentum, *Immigrant Raids Separate Children from Parents*, available at <http://www.legalmomentum.org/our-work/immigrant-women-program/immigration-raids-separate.html> (last accessed April 25, 2011).
- ¹¹ New American Media, *Arizona Immigrant Women Testify in Congress about SB 1070*, available at <http://newamericamedia.org/2010/06/arizona-immigrant-women-testify-in-congress-against-sb-1070.php> (last accessed April 21, 2011).
- ¹² *Ibid.*
- ¹³ Cronkite News, *Trapped in Violence: Undocumented Abuse Victims Face Hurdles*, available at <http://cronkitenewsonline.com/2010/12/trapped-in-violence-undocumented-domestic-abuse-victims-face-hurdles/>, (last accessed April 26, 2011).
- ¹⁴ Legal Momentum, *SB 1070 Copycat Bills Threaten Health and Safety of Immigrant Women and Children*, available at <http://legalmomentum.typepad.com/blog/2011/04/hb-1070-copycat-bills-threaten-health-and-safety-of-immigrant-women-and-children-.html> (last accessed April 21, 2011).
- ¹⁵ New American Media, *supra* note 11.
- ¹⁶ National Council of La Raza, *One Year Later: A Look at SB 1070 and Copycat Legislation*, available at <http://www.nclr.org/images/uploads/publications/AlookatSB1070v3.pdf> (last accessed April 21, 2011).
- ¹⁷ *United States v. State of Arizona*, available at http://www.ca9.uscourts.gov/datastore/general/2011/04/11/10-16645_opinion.pdf (last accessed April 21, 2011).
- ¹⁸ *Ibid* at 5.
- ¹⁹ *Illegal Immigration Reform and Enforcement Act of 2011 (HB 87)*, available at http://www1.legis.ga.gov/legis/2011_12/fulltext/hb87.htm (last accessed April 21, 2011).
- ²⁰ While Utah introduced an SB 1070 copycat bill, it was coupled with a bill that attempts to create a guest worker program for the state's undocumented workers. See *Utah Illegal Immigration Enforcement Act (HB 497)*, available at <http://le.utah.gov/~2011/bills/hbillint/hbo497s01.htm> (last accessed April 21, 2011); *Guest Worker Program Act (HB 116)* available at <http://le.utah.gov/~2011/bills/hbillint/hbo116.htm> (last accessed April 21, 2011).
- ²¹ National Council of La Raza, *supra* note 13 at 5.
- ²² Immigration Policy Center, *Q&A Guide to State Immigration Laws*, available at <http://www.immigrationpolicy.org/special-reports/qa-guide-state-immigration-laws>, (last accessed April 25, 2011).
- ²³ *Senate Bill 167*, available at <http://mlis.state.md.us/2011rs/billfile/sbo167.htm> (last accessed April 21, 2011).
- ²⁴ *S4179-2011: Establishes the New York dream act, providing certain benefits to undocumented immigrants that satisfy certain criteria*, available at <http://open.nysenate.gov/legislation/bill/S4179-2011> (last accessed April 21, 2011).
- ²⁵ *The Illinois DREAM Act (SB 2185)*, available at http://www.stapostle.org/storage/osj_illinoisdreamfaq.pdf (last accessed April 21, 2011).