

AILA Urges Arizona Governor to Veto Unconstitutional and Overly Punitive Anti-Immigrant Bill

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AILA Expresses Grave Concern Over Copycat Bills

WASHINGTON, DC – The American Immigration Lawyers Association (AILA) strongly urges Arizona Governor Jan Brewer to veto a bill moving rapidly through the state legislature that would make it a crime to be an undocumented immigrant in the state. In addition to being unconstitutional under the Supremacy Clause of the U.S. Constitution, the law would effectively authorize police to engage in racial profiling against immigrants and permit citizens to sue any state or local agency if they believe it is failing to enforce the law.

"Beyond the legal deficiencies of SB 1070 [the Arizona bill], this will hurt local economies, make it harder for police to do their jobs, and instill fear in communities," explained AILA President Bernie Wolfsdorf. "On top of making laws that will be struck down in the courts, it will hurt business and even bankrupt local municipalities. We've seen this happen in other localities trying to be tough on immigration but in the end hurting their own economies." Places like Prince William County in Virginia which passed a tough anti-immigrant law in 2007, are now revisiting their enforcement policies because they are too costly. In Tulsa, two months after a harsh 2008 law went into effect, construction jobs weren't getting finished, downed branches weren't getting picked up, and local businesses were getting far fewer customers.

"The bill will overwhelm local enforcement agencies by requiring them to engage in the highly technical work of enforcing immigration law that is better left to the federal government. Nationally efforts to deputize local law enforcement have failed for precisely that reason," said AILA Executive Director Crystal Williams referring to what is known as the 287(g) Program. Under section 287(g) of the Immigration and Nationality Act, state and local law enforcement agencies, acting under federal supervision, may assume federal immigration enforcement powers. Earlier this month a report by the DHS Office of the Inspector General found widespread lack of adequate training, guidance, monitoring or oversight. AILA is urging termination of the entire program.

The Arizona bill would require state law enforcement agents to question individuals about their immigration status if the officer has a "reasonable suspicion" that they are undocumented. An individual who cannot provide proof of legal status would be subject to arrest. According to Williams, "In effect, the act compels law enforcement to conduct racial profiling of all people in the state, including U.S. citizens. People will be questioned and detained for looking foreign. "

The bill would require all immigrants to carry proof of their legal status, such as their alien registration card or other immigration document, at all times. "Thus, a green card holder who goes out to his front yard in his bathrobe on a Sunday morning to fetch the newspaper is a criminal if he doesn't carry his green card with him to the end of the driveway and back," said Wolfsdorf.

The bill also creates a private right of action for any person to sue a city, town, or county for not enforcing immigration laws to the full extent of federal law and it establishes civil penalties for the city, town, or county. "This subjects local governments to unreasonable and potentially frivolous litigation by private citizens with an anti-immigrant agenda. Even if a municipality is vindicated in court, it will still have to incur the costs of defense," Wolfsdorf said.

"There is a real danger that the Arizona law will be duplicated by other states attracted to the notion that our broken immigration system can be fixed with band-aid local laws. AILA urges Governor Brewer to stand up to this intolerance and veto this bill the moment it reaches her desk. Instead she should call upon Congress to pass comprehensive immigration reform—the only smart approach to this complex issue," Wolfsdorf concluded.

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The American Immigration Lawyers Association is the national association of immigration lawyers established to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members.