

## State and Local Policies on Immigrant Access to Services PROMOTING INTEGRATION OR ISOLATION?

By TANYA BRODER  
Public Benefits Policy Director

May 2007

Millions of immigrant workers, their families and friends demonstrated in cities and towns across the United States in 2006, denouncing punitive measures and advocating for positive change.<sup>1</sup> Motivated by a federal bill that would criminalize their very presence,<sup>2</sup> immigrants' heightened visibility at once bolstered their political power and intensified efforts to prevent them from asserting it. Congress debated whether to advance an "enforcement only" immigration policy or to couple enforcement measures with a pathway to permanent status for immigrants who live, work, and study in this country. State and local governments similarly deliberated over whether to invest in policies that assist immigrants in integrating into their communities or that attempt to marginalize them. In the absence of progress by the federal

government towards reforming the nation's immigration laws, states adopted both approaches.

Hundreds of immigrant-related measures were introduced in state legislatures in 2006, addressing policies such as access to services, education, employment verification, driver's licenses,<sup>3</sup> local enforcement of federal immigration laws, human trafficking, naturalization, and voting rights.<sup>4</sup> Over a hundred local ordinances proposed to regulate an even broader array of activities. State and local activity on these issues appears at least as intense in the 2007 legislative sessions, with over a thousand bills again under consideration.<sup>5</sup>

As in the previous year, the majority of the state bills targeting immigrants in 2006 failed to become

<sup>1</sup> Ted Wang and Robert C. Winn, GROUNDSWELL MEETS GROUNDWORK: RECOMMENDATIONS FOR BUILDING ON IMMIGRANT MOBILIZATIONS (Four Freedoms Fund and Grantmakers Concerned with Immigrants and Refugees, June 2006), [www.gcir.org/resources/gcir\\_publications/groundswell\\_report2\\_new.pdf](http://www.gcir.org/resources/gcir_publications/groundswell_report2_new.pdf); see especially "Spring 2006 Immigrant Mass Mobilizations" map, p. ii (inside of front cover).

<sup>2</sup> The Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (HR 4437), an "enforcement-only" bill authored by Rep. F. James Sensenbrenner Jr. (R-WI) and passed by the U.S. House of Representatives on Dec. 16, 2005, would have criminalized technical violations of immigration law by making unlawful presence in the U.S. a felony.

<sup>3</sup> See 2006 STATE DRIVER'S LICENSE LEGISLATION (NILC, Dec. 2006), [www.nilc.org/immspbs/DLs/state\\_dl\\_proposals\\_2006\\_2007-01-30.pdf](http://www.nilc.org/immspbs/DLs/state_dl_proposals_2006_2007-01-30.pdf).

<sup>4</sup> According to the National Conference of State Legislatures (NCSL), 570 bills concerning immigrants were introduced in state legislatures in 2006. At least 90 bills or resolutions in 32 states passed in 2006, including both punitive and pro-immigrant measures. Eighty-four were signed into law, more than double the number in 2005, while 6 bills were vetoed. "2006 State Legislation Related to Immigration: Enacted and Vetoed" (NCSL, Oct. 31, 2006), [www.ncsl.org/programs/immig/6ImmigEnactedLegis3.htm](http://www.ncsl.org/programs/immig/6ImmigEnactedLegis3.htm).

<sup>5</sup> "Overview of State Legislation Related to Immigration and Immigrants in 2007" (NCSL, April 18, 2007), [www.ncsl.org/programs/immig/2007StateLegislationImmigration.htm](http://www.ncsl.org/programs/immig/2007StateLegislationImmigration.htm).

The author thanks Jonathan Blazer, who contributed significantly to this article; Adrienna Wong, who provided invaluable research assistance; and Sonal Ambegaokar, Joan Friedland, Richard Irwin, Tyler Moran, and Ted Wang, who provided helpful comments.

law.<sup>6</sup> The attempt to use immigration as a wedge issue in the 2006 elections similarly failed in the most prominent races, particularly for candidates who adopted the most virulent anti-immigrant positions.<sup>7</sup> The hostility in the state and local debates, however, fueled a climate that deters lawfully present immigrants and their family members from securing critical services and impedes access to the few critical services that remain available regardless of immigration status.

This article summarizes the proposals affecting access to health care and other critical services for immigrants in 2006 and the beginning of 2007, including policies that deter eligible families from seeking services, as well as affirmative efforts to promote immigrant integration into the nation's communities.

### ■ Most Proposals to Restrict Services for Immigrants Failed, and Some Enacted Restrictions Were Halted

The overwhelming majority of the bills proposing to restrict immigrants' access to services considered by state legislatures in 2006 died in legislative committees, failed to pass, or were vetoed. After hearing

testimony about the potential harm to public health, safety, and the local economy, and after concluding that the state and local measures restricting services do not alter federal immigration policy, state legislatures rejected the vast majority of these bills. The most extreme measures suffered resounding defeats. For example:

- An **Indiana** bill that would have restricted access to education, health and social services, and required local agencies to report "suspected" undocumented persons to federal immigration authorities was rejected by a vote of 74 to 19.<sup>8</sup>
- An **Oklahoma** measure proposed in 2006, that would have authorized public and private schools, health care and social service agencies, businesses, community organizations, and local agencies to verify immigration status and report individuals to federal authorities also failed, after thousands rallied in Tulsa to express support for positive immigration policies. However, on May 8, 2007, the state's governor signed another sweeping measure that was introduced earlier this year.
- In **Virginia**, a bill proposing to *restrict* undocumented students' access to "in-state" tuition (the tuition rates at state colleges and universities for students with residence in or other connections to the state) was amended by the author mid-session to a bill that would *provide* in-state tuition for some of these students. The author revised his legislation after a personal experience exposed him to the plight and the promise of such students (including one who had returned from a

<sup>6</sup> MOST STATE PROPOSALS TO RESTRICT BENEFITS FOR IMMIGRANTS FAILED IN 2005 (NILC, Nov. 2005), [www.nilc.org/immspbs/sf\\_benefits/2005\\_anti-imm\\_proposals\\_article\\_112105.pdf](http://www.nilc.org/immspbs/sf_benefits/2005_anti-imm_proposals_article_112105.pdf).

<sup>7</sup> Examples include J.D. Hayworth and "Minuteman" Randy Graf in Arizona, and Rick Santorum in Pennsylvania. Voters in the 2006 elections favored candidates who support a comprehensive rather than an "enforcement-only" approach to immigration reform. See, e.g., A NATIONAL SURVEY OF VOTER ATTITUDES TOWARDS IMMIGRATION (Manhattan Institute, Nov. 2006), [www.manhattan-institute.org/ppt/Tarrance\\_Immigration\\_Poll\\_11-03-06\\_files/frame.htm](http://www.manhattan-institute.org/ppt/Tarrance_Immigration_Poll_11-03-06_files/frame.htm). Latino support for Republicans dropped precipitously in the 2006 elections, when Latinos associated Republicans with anti-immigrant positions. See [www.immigration2006.org](http://www.immigration2006.org). See also "Immigration Issue Driving Latinos to the Polls, New Survey Finds" (National Council of La Raza and the National Association of Latino Elected and Appointed Officials, Nov. 2006), [www.nclr.org/content/news/detail/42996](http://www.nclr.org/content/news/detail/42996).

<sup>8</sup> Indiana's HB 1383 would have barred undocumented children from public schools, prohibited public hospitals from treating certain immigrants, and required local law enforcement requirements to report "suspected" undocumented immigrants to federal authorities. Identical provisions in California's Proposition 187 were held unconstitutional, as an impermissible state attempt to regulate immigration. See *League of United Latin American Citizens. v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995); 997 F. Supp. 1244 (C.D. Cal. 1997). See also *Plyler v. Doe*, 457 U.S. 202 (1982) (prohibiting states from denying elementary and secondary education to undocumented immigrant children).

tour of duty in Iraq).<sup>9</sup> In 2007, the Virginia legislature rejected dozens of bills targeting immigrants and one targeting nonprofit agencies that serve undocumented immigrants.<sup>10</sup>

- The **Nebraska** legislature overrode the governor's veto of a measure providing access to in-state tuition for students with strong ties to the state, regardless of their immigration status.
- Hundreds of other proposals to limit services for immigrants in **Alabama, California, Georgia, Hawaii, Minnesota, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Tennessee** and other states were defeated in 2006.

Legal challenges to restrictions on services were successful in maintaining or restoring services for immigrants in some states. **Maryland's** governor, for example, had terminated state funding for medical services to "qualified" immigrant children and pregnant women who are ineligible for Medicaid due to the federal five-year bar. Advocates representing the affected immigrants sued. The state's highest court applied "strict scrutiny" review to the governor's actions and found that the immigrants were likely to win their claim that the cuts violated the state constitution's equal protection clause.<sup>11</sup> After the decision was issued, the state agency restored coverage for these children and pregnant women.

Litigation also prevented a ballot initiative, which proposed to deny nonemergency services to un-

<sup>9</sup> Rosalind S. Helderman, "Tuition Break Sought for Some Illegals," WASHINGTON POST, Feb. 10, 2006; Julia Preston, "State Proposals on Illegal Immigration Largely Falter," NEW YORK TIMES, May 9, 2006. The Virginia bills banning in-state tuition and those providing in-state tuition to certain students, regardless of their status, failed to become law in 2006 or 2007.

<sup>10</sup> The legislature approved a few immigrant-related bills in 2007, including positive measures to establish a commission on human trafficking, ban extortion based on threats relating to immigration status, and establish a commission to study the impact of immigration.

<sup>11</sup> Ehrlich v. Perez, 908 A.2d 1220 (MD. Ct. App, Oct. 12, 2006).

documented immigrants, from moving forward in **Colorado**.<sup>12</sup> Lawsuits halted implementation of several local ordinances compelling businesses and landlords to identify undocumented immigrants seeking to work or to rent an apartment. Several other cities, daunted by the costs of defending against such challenges, withdrew their plans to implement similar measures. Finally, **Kansas** and **California** successfully defended policies granting in-state tuition to students, regardless of citizenship or immigration status, who had studied in and graduated from the state's high schools.<sup>13</sup>

## ■ In 2006, Three States Enacted Laws Restricting Access to Services

In the months following the demonstrations, and in the absence of federal action to address an immigration system widely viewed as broken, pressure mounted for states to "do something" about the growing presence of immigrants. In 2006, three states enacted laws or initiatives restricting immigrants' access to services: Arizona, Colorado, and Georgia.<sup>14</sup> The enacted measures were narrowed

<sup>12</sup> Gonzalez-Estay v. Lamm, 138 P.3d 273 (Colo. June 12, 2006).

<sup>13</sup> Day v. Sebelius, 376 F. Supp. 2d 1022 (D. Kan. July 5, 2005); Martinez v. Regents of the University of California (Yolo County Sup. Ct. Oct. 4, 2006). Both cases have been appealed.

<sup>14</sup> A greater number of bills imposing barriers to employment for undocumented immigrants passed in 2006. Some legal analysts have stressed that most of these measures are preempted by federal law, which regulates the employment of immigrants, and if implemented are likely to promote unlawful discrimination. See, e.g., STATE AND LOCAL PROPOSALS THAT PUNISH EMPLOYERS FOR HIRING UNDOCUMENTED WORKERS ARE UNENFORCEABLE, UNNECESSARY, AND BAD PUBLIC POLICY (NILC, Feb. 2007), [www.nilc.org/immsemplymnt/ircampverif/employersanctionsTPs\\_2007-02-22.pdf](http://www.nilc.org/immsemplymnt/ircampverif/employersanctionsTPs_2007-02-22.pdf); MORE HARM THAN GOOD: RESPONDING TO STATES' MISGUIDED EFFORTS TO REGULATE IMMIGRATION (National Employment Law Project, Feb. 2007), [www.nelp.org/docUploads/More\\_Harm\\_than\\_Good\\_final\\_020807.pdf](http://www.nelp.org/docUploads/More_Harm_than_Good_final_020807.pdf); Stephen Yale-Loehr and Ted Chiappari, "Immigration: Cities and States Rush in Where Congress Fears to Tread," NEW YORK LAW JOURNAL, Feb.

considerably before passage. In the wake of Arizona's Proposition 200, Virginia had passed a similar bill in 2005 that sought to restrict access to services for immigrants.<sup>15</sup> Virginia's bill required adults to verify lawful presence in order to receive certain public benefits. Like Arizona's Proposition 200 and Virginia's new law, the measures passed in Colorado and Georgia had limited *legal* effect, generally applying only to services for which undocumented immigrants already were ineligible. The harm caused by these policies, however, fell most acutely on U.S. citizens and eligible immigrants who faced significant new barriers to securing services. The bills typically aimed to "send a message" to the federal government and to provide an impression that politicians were doing something about immigration. Although some measures were drafted specifically to "look tough" but to do no harm, their unintended consequences on citizens, immigrant families, and the health and prosperity of local communities are becoming clear.

## Arizona

Over the past two years, Arizona's governor has vetoed several bills targeting undocumented immigrants.<sup>16</sup> One of these measures, which would have

---

2007, [www.millermayer.com/new/nylj\\_locallaw.html](http://www.millermayer.com/new/nylj_locallaw.html) (Colorado law reaches beyond federal employer sanctions law, forcing employers to walk a tightrope between compliance with federal immigration laws and antidiscrimination laws).

<sup>15</sup> Arizona's Proposition 200, passed in 2004, did not alter immigrants' eligibility for benefits. It required agencies to verify the identity and immigration status of applicants for certain services and to report any "discovered" immigration law violation to federal immigration authorities. It imposed criminal penalties on employees who failed to file such a report. It also mandated that persons registering to vote provide specific documents to establish that they are U.S. citizens.

<sup>16</sup> Governor Janet Napolitano vetoed sweeping bills that would have restricted access to certain services for undocumented immigrants, imposed new verification requirements, promoted local police enforcement of federal immigration laws, made presence on public and private property by undocumented immigrants a trespassing offense, required em-

ployers to fire and report employees to federal immigration authorities if they lack a valid Social Security number, increased employer sanctions, authorized the national guard to enforce immigration law if the governor declares a state of emergency due to unauthorized immigration, and established a radar system to enforce the border.

Proposition 200, after a lawsuit was unsuccessful in doing so.<sup>17</sup> The state attorney general determined that Proposition 200 applied only to a small number of programs for which undocumented immigrants already were ineligible.<sup>18</sup> Proposition 200 also required these agencies to report undocumented immigrants to federal authorities. Proposition 300, by contrast, requires a report on the *number of persons* denied services based on their status.<sup>19</sup> Despite her reputation for embracing generally pro-immigrant positions, Governor Janet Napolitano won by a comfortable margin in the

---

employers to fire and report employees to federal immigration authorities if they lack a valid Social Security number, increased employer sanctions, authorized the national guard to enforce immigration law if the governor declares a state of emergency due to unauthorized immigration, and established a radar system to enforce the border.

<sup>17</sup> Yes on Proposition 200 v. Napolitano, No. CV2004-092999 (Maricopa County Sup. Ct., order issued Mar. 14, 2005); AZ Court of Appeals Div. One, CA-CV 05-0235.

<sup>18</sup> In an opinion issued Nov. 12, 2004, Arizona's attorney general determined that the initiative applies solely to the following programs: General Assistance, Sight Conservation, Neighbors Helping Neighbors, Utility Repair, Replacement and Deposit, and the Supplemental Payment Program. Due in part to this narrow interpretation, the Ninth Circuit Court of Appeals found that plaintiffs challenging Proposition 200 had not shown a threat of imminent injury. The case was dismissed "without prejudice," allowing plaintiffs to refile if they can show such a threat. See "Ninth Circuit Dismisses Challenge to Arizona's Proposition 200," IMMIGRANTS' RIGHTS UPDATE, Oct. 5, 2005, [www.nilc.org/immspbs/vr/verifreptg009.htm](http://www.nilc.org/immspbs/vr/verifreptg009.htm).

<sup>19</sup> Other initiatives passed in Arizona in 2006 (1) deny bail to undocumented immigrants; (2) prohibit undocumented immigrants from collecting punitive damages; (3) establish an "official English" policy, requiring that "official actions" be conducted in English and that, "to the greatest extent possible," services, programs, publications, documents, and materials be provided in English.



2006 election, as did other governors who were viewed as supportive of immigrants.<sup>20</sup>

## Georgia

Georgia enacted the most comprehensive bill targeting immigrants in 2006, although even the bill that passed was less restrictive than the version that was introduced. SB 529 requires state agencies to verify the immigration status of adults applying for benefits if lawful presence already is a condition of eligibility for the particular benefit (prenatal care, emergency medical services, and certain other services are exempted). In addition, public employers and contractors must verify the employment eligibility of new hires through the federal employment eligibility verification program administered by the U.S. Department of Homeland Security (DHS).<sup>21</sup> The bill denies a state tax deduction for wages paid to workers without a valid taxpayer identification number. It requires local law enforcement to make a reasonable effort to determine the nationality of persons charged with a felony or driving while under the influence and requires that the state Department of Public Safety negotiate a memorandum of understanding regarding immigration enforcement with DHS. It also includes measures protecting immigrants, regulating the activities of notaries who provide immigration services, and increasing penalties for human trafficking. Most provisions of the bill are scheduled to go into effect on July 1, 2007.

## Colorado

Colorado's two bills affecting access to services for immigrants were passed in a special session

called by the governor after the regular 2006 legislative session. HB 1023 requires agencies to verify the immigration status of adults applying for public benefits, if lawful presence already is a condition of eligibility for the particular benefit. Exemptions include services such as prenatal care, emergency medical services, testing and treatment for communicable diseases, and disaster assistance. The bill lists specific documents that may be used to establish identity; according to the list, not even a U.S. passport was considered acceptable. Another bill, HB 1009, restricts access to professional and commercial licenses. A lawsuit filed last year challenged a requirement that individuals provide specific documents in order to secure a Colorado identification card or driver's license, noting that the passage of HB 1023 exacerbated the harm caused by this rule.<sup>22</sup>

The bills negotiated during Colorado's special session<sup>23</sup> were intended in part to stem the threat of

<sup>22</sup> *Hill v. Cooke* (D. Denver, filed Nov. 16, 2006). A preliminary injunction was issued on Dec. 15, 2006, blocking implementation of the state Department of Motor Vehicles' "two document" rule. Since that time, administrative agencies have expanded the list of acceptable documents to some extent. In 2007, Colorado enacted a law requiring the state Department of Revenue to issue rules ensuring that benefits applicants can use additional documents recognized by the federal government to prove lawful presence. A pending bill provides a broader list of documents that would be acceptable as identification for public benefits applicants.

<sup>23</sup> Colorado enacted laws that promote local cooperation with federal immigration authorities; increase penalties for use of fraudulent documents to secure employment; impose penalties on employers who alter documents; require employers to affirm that they have examined workers' employment authorization; prohibit access to public contracts if the business hires or contracts with undocumented workers; require public contractors to use the Basic Pilot to verify employment eligibility; provide incentives for employers to verify employees' status; direct the state attorney general to recover (from the federal government) the costs of incarcerating undocumented immigrants; require withholding of state income tax if an employee fails to provide a valid tax identification number; and require employers to confirm that they verified employees' employment eligibility. The legislature also enacted a law ensuring that communicable disease

<sup>20</sup> Democratic governors who had been accused of being "soft" on immigration won their races in Arizona, Colorado, Kansas, Maryland, Massachusetts, Oregon, and Wisconsin. See [www.immigration2006.org](http://www.immigration2006.org).

<sup>21</sup> Employer participation in the Basic Pilot employment eligibility verification program is, for the most part, voluntary. As of April 15, 2007, approximately 16,000 employers were participating in it. For more information, see BASIC INFORMATION BRIEF: DHS BASIC PILOT PROGRAM (NILC, March 2007), [www.nilc.org/immsemplymnt/ircaempverif/basicpilot\\_infobrief\\_brief\\_2007-03-21.pdf](http://www.nilc.org/immsemplymnt/ircaempverif/basicpilot_infobrief_brief_2007-03-21.pdf).

a more contentious and harsher voter initiative.<sup>24</sup> The governor had called the special session after the Colorado Supreme Court held that Initiative 55, which would have made undocumented immigrants ineligible for most nonemergency benefits, violated the state's "single subject" rule.<sup>25</sup> Democrats, hoping to preempt another initiative, negotiated some of the bills with the intention of appearing "tough" on undocumented immigrants, while expecting to "do no harm."<sup>26</sup> Unfortunately, the measures proved to be more harmful to Colorado residents than they may have anticipated.

### Proposals in Other States

A similar initiative in **Washington** (a Proposition 200 copycat) and a **California** initiative that proposed to deny a range of services to undocumented immigrants failed to secure sufficient signatures to qualify for the ballot.<sup>27</sup> An initiative now circulating

---

treatment remains available, and another criminalizing extortion when accompanied by threats relating to immigration status.

<sup>24</sup> T. R. Reid, "In Colorado, A Deal on Immigration Bills," WASHINGTON POST, July 12, 2006. Colorado passed two immigrant-related initiatives in 2006: Referendum H, denying state tax benefits to businesses that pay unauthorized immigrants and providing that wages cannot be claimed as a deductible expense if, at the time of hire, the business knew that the employee was unauthorized; and Referendum K, requiring the Colorado attorney general to initiate or join a lawsuit against the U.S., demanding that the federal government enforce immigration laws.

<sup>25</sup> Gonzalez-Estay v. Lamm, 138 P.3d 273 (Colo. June 12, 2006).

<sup>26</sup> Nicholas Riccardi, "Immigration Hard-Liners on a High," LOS ANGELES TIMES, July 12, 2006 (quoting Democratic Speaker of the Colorado Assembly Andrew Romanoff: "This is tough, effective enforceable and practical."); "Illegal Immigration Bills Passed in Colorado," ASSOCIATED PRESS, July 11, 2006 (quoting Senate President Joan Fize-Gerald: "We want to be able to look in the mirror and say we did legislation that is tough, enforceable and humane.").

<sup>27</sup> The California initiative (06-0032), which failed to garner enough signatures by March 2007, would have prohibited undocumented immigrants from securing a driver's license, state identification card, tuition exemptions; grants, con-

for signatures in Washington again attempts to require verification of immigration status for persons seeking state and local benefits unless the benefits are "federally mandated." **Wisconsin's** governor vetoed a bill that would have required applicants for state benefits to show proof of citizenship or proof that they are "permanently residing in the U.S. under color of law," declaring that this law would duplicate existing law.<sup>28</sup>

Colorado's HB 1023, which was modeled on Georgia's benefits provisions, has been copied and introduced in several state legislatures in 2007, including **Idaho, Kansas, Missouri, North Carolina, Tennessee, and Utah**. The legislatures in these states are beginning to hear about the cost of Colorado's experiment.

### Restrictions Enacted to Date in 2007

In March 2007, **Idaho's** governor signed a bill similar to Colorado's, requiring adults seeking certain benefits to verify their lawful presence in the U.S.<sup>29</sup> **Oklahoma's** governor recently signed a more comprehensive bill, which includes a requirement that benefit applicants over age 14 verify lawful presence if a law, ordinance, or regulation already makes lawful presence a condition of eligibility for the benefit.<sup>30</sup>

---

tracts, loans; licenses; and other public benefits that federal law does not require be available to anyone living in the U.S.

<sup>28</sup> For more information on key legislation and ballot measures targeting immigrants in 2006, see Raymond Rico, "Immigration Was Key in 2006 State Legislation and Ballot Measures," IMMIGRANTS' RIGHTS UPDATE, March 29, 2007, [www.nilc.org/immspbs/sf\\_benefits/sfbps003.htm](http://www.nilc.org/immspbs/sf_benefits/sfbps003.htm).

<sup>29</sup> Idaho's SB 1157 requires adults seeking certain federal, state, or local benefits to verify lawful presence in instances where this status is already required, with various exceptions, including when applying for prenatal and postnatal care. The law provides some flexibility to ensure that homeless individuals and other eligible persons can receive services. It becomes effective on July 1, 2007. Idaho's governor also signed a measure declaring English to be the state's "official" language.

<sup>30</sup> Oklahoma's HB 1804 also includes provisions (1) making it a state crime to shelter or transport an immigrant who may

By contrast, **Virginia**'s state legislature rejected the worst measures among a slew of anti-immigrant proposals introduced in 2007, including one targeting not only immigrant families but also the non-profit agencies that serve them. In **Kansas**, social service agencies, domestic violence survivors, and immigrant rights and faith-based groups allied with the League of Municipalities to oppose a bill requiring verification of lawful presence of persons seeking state and local benefits. After receiving extensive spoken and written testimony, the Kansas legislature rejected the bill in March 2007. In **Texas**, an unusual coalition of Republican business interests, including the Texas Association of Business, and Democratic legislators, appears poised to defeat an array of anti-immigrant legislation recommended by a conservative task force in the fall of 2006, reversing what was projected to be an "epic battle" over immigration in the state.<sup>31</sup>

## ■ Measures Targeting Immigrants Harm U.S. Citizens

Recent efforts to require verification of the citizenship or immigration status of individuals seeking benefits or wishing to engage in other activities demonstrate that the harm stemming from such measures falls primarily on eligible U.S. citizens and immigrants. In fact, U.S. citizens are less likely than

---

have entered or remained in the U.S. while undocumented; (2) restricting certain immigrants' access to driver's licenses, identity documents, and school identification documents (except those used only on campus); (3) restricting access to in-state tuition for certain students; (4) imposing state penalties on employers who fire a U.S. citizen or lawfully present immigrant while retaining an undocumented worker with the same skills; (5) exempting employers who participate in the Basic Pilot employment eligibility verification program; (6) imposing state income tax penalties on contractors who fail to verify employees' employment eligibility; and (7) requiring the state attorney general to negotiate a memorandum of understanding with the U.S. Department of Homeland Security regarding the enforcement of federal immigration laws in Oklahoma.

<sup>31</sup> Megan Headley, "Northward Ho!: How the Immigration Debate Left Texas," *TEXAS OBSERVER*, Mar. 23, 2007.

noncitizens to have the documents required by the new verification laws.

## Citizenship Status Verification under the Federal Deficit Reduction Act of 2005

States' experience with the Medicaid verification requirements for citizens under the Deficit Reduction Act of 2005 (DRA) is instructive.<sup>32</sup> In 2005, Georgia Representatives Charlie Norwood and Nathan Deal alleged that undocumented immigrants were making false declarations of U.S. citizenship in order to obtain Medicaid coverage, without offering any evidence that this actually was occurring.<sup>33</sup> To the contrary, many *lawfully present* immigrants fail to secure Medicaid for which they are eligible, due to confusion about the rules and other immigration-related concerns.<sup>34</sup> Despite the absence of facts to

---

<sup>32</sup> Section 6036 of the Deficit Reduction Act of 2005, Pub. L. 109-171 (Feb. 8, 2006), as amended, codified at 42 USC 1396b(x).

<sup>33</sup> A federal agency report found that, while most states accepted self-declaration of citizenship status, nearly all states required further documentation when there was reason to question an applicant's claim of citizenship. State Medicaid directors indicated that a documentation requirement would undermine efforts to streamline the application process, delay eligibility determinations, increase agency costs, and impose burdens and expenses on applicants. Notably, after reviewing the states' quality control practices, neither the U.S. Dept. of Health and Human Services inspector general nor the Centers for Medicare and Medicaid Services recommended that states impose a citizenship documentation requirement. SELF-DECLARATION OF U.S. CITIZENSHIP FOR MEDICAID (U.S. Dept. of Health and Human Services, Office of Inspector General, July 2005), <http://oig.hhs.gov/oci/reports/oci-02-03-00190.pdf>.

<sup>34</sup> See, e.g., Shawn Fremstad, "Facts About Immigrants' Low Use of Health Services and Public Benefits," *IMMIGRANTS' RIGHTS UPDATE*, Sept. 29, 2006, [www.nilc.org/immisps/research/research002.htm](http://www.nilc.org/immisps/research/research002.htm); Sarita A. Mohanty, *UNEQUAL ACCESS: IMMIGRANTS AND U.S. HEALTH CARE* (Immigration Policy Center, July 2006); Randolph Capps, Michael Fix, Everett Henderson, Jane Reardon-Anderson, *A PROFILE OF LOW-INCOME WORKING IMMIGRANT FAMILIES* (Urban Institute, June 2005); Dana P. Goldman, James P. Smith, and Neeraj Sood, "Immigrants and the Cost of Medical Care," *HEALTH AFFAIRS* 25 No. 6 (2006); Leighton Ku,

support the alleged problem, Norwood and Deal persuaded Congress to add a requirement that states obtain proof of citizenship status from U.S. citizens and nationals seeking or enrolled in Medicaid. The new verification requirement, which applies only to U.S. citizens and nationals, did not alter the rules for immigrants, who had always been required to provide documents in order to obtain nonemergency Medicaid. Nevertheless, the new rules exacerbated the confusion surrounding immigrants' eligibility.<sup>35</sup> U.S. citizens, who comprise the majority of Medicaid recipients, are suffering most profoundly from the new verification requirement.

After the Centers for Medicare and Medicaid Services (CMS) published regulations implementing the citizenship documentation requirement, the Center on Budget and Policy Priorities (CBPP) conservatively estimated that the rule would jeopardize Medicaid for 1.2 to 2.3 million citizens, including up to 1.6 million children who lacked the requisite documents.<sup>36</sup> Rural residents, seniors, and African Americans were determined to be at disproportionate risk of harm.<sup>37</sup> Other low-income citizens who are unlikely to have passports or birth certificates

readily available, such as nursing home residents, disaster survivors or homeless Medicaid recipients, also are at risk.

Since its implementation, the measure has produced significant increases in state administrative costs and a marked decrease in Medicaid enrollment, depriving tens of thousands of U.S. citizens of critical health coverage.<sup>38</sup> This predictable outcome is consistent with research illustrating that document requirements and other administrative burdens prevent eligible individuals from securing coverage.<sup>39</sup> After health care providers, state and local governments, and advocates for low-income residents expressed strong dissatisfaction with the new citizenship verification rules, legislation making citizenship verification in Medicaid a state option was introduced in Congress.<sup>40</sup>

### New Documentation Requirements in State Measures

The bills moving through state legislatures similarly were accompanied by claims that undocumented immigrants obtain services fraudulently, even though the authors and proponents of the bills produced no evidence of such fraud. Like the DRA,

---

"Why Immigrants Lack Adequate Access to Health Care and Health Insurance," MIGRATION INFORMATION SOURCE, Sept. 2006, [www.migrationinformation.org/Feature/display.cfm?id=417](http://www.migrationinformation.org/Feature/display.cfm?id=417).

<sup>35</sup> Inaccurate reporting in the media and outreach materials developed by CMS and state Medicaid agencies fueled the misperception that the new law required all Medicaid applicants to be U.S. citizens. For clarification of the DRA provision's effect on immigrants, see IMMIGRANTS ARE NOT AFFECTED BY THE NEW MEDICAID LAW: NEW FEDERAL MEDICAID DOCUMENT REQUIREMENT FOR U.S. CITIZENS DOES NOT CHANGE THE RULES FOR NONCITIZENS (NILC, June 2006), [www.nilc.org/immspbs/vr/medicaid\\_ctznshp\\_verification\\_2006-6-21.pdf](http://www.nilc.org/immspbs/vr/medicaid_ctznshp_verification_2006-6-21.pdf).

<sup>36</sup> Leighton Ku, REVISED MEDICAID DOCUMENTATION REQUIREMENT JEOPARDIZES COVERAGE FOR 1 TO 2 MILLION CITIZENS (CBPP, July 13, 2006), [www.cbpp.org/7-13-06health2.htm](http://www.cbpp.org/7-13-06health2.htm).

<sup>37</sup> Leighton Ku, SURVEY INDICATES DEFICIT REDUCTION ACT JEOPARDIZES MEDICAID COVERAGE FOR 3 TO 5 MILLION U.S. CITIZENS (CBPP, revised Feb. 17, 2006), [www.cbpp.org/1-26-06health.htm](http://www.cbpp.org/1-26-06health.htm).

---

<sup>38</sup> Robert Pear, "Citizens Who Lack Papers Lose Medicaid" NEW YORK TIMES, Mar. 12, 2007 (75 percent of those dropped from coverage in Kansas were children; some children with asthma could not afford daily medications for wheezing and were admitted to hospitals with asthma attacks; one citizen child was denied Medicaid for heart surgery); Donna Cohen Ross, NEW MEDICAID CITIZENSHIP DOCUMENTATION REQUIREMENT IS TAKING A TOLL: STATES REPORT ENROLLMENT IS DOWN AND ADMINISTRATIVE COSTS ARE UP (CBPP, revised Mar. 13, 2007), [www.cbpp.org/2-2-07health.htm](http://www.cbpp.org/2-2-07health.htm).

<sup>39</sup> Michael Perry, Susan Kannel, R. Burciaga Valdez, and Christina Chang, MEDICAID AND CHILDREN OVERCOMING BARRIERS TO ENROLLMENT: FINDINGS FROM A NATIONAL SURVEY (Kaiser Commission on Medicaid and the Uninsured, Jan. 12, 2000), [www.kff.org/medicaid/2174-index.cfm](http://www.kff.org/medicaid/2174-index.cfm).

<sup>40</sup> See, e.g., S 909; HR 1535. See also April Grady, MEDICAID CITIZENSHIP DOCUMENTATION (Congressional Research Service, Mar. 22, 2007), available at [http://openers.cdt.org/rpts/RS22629\\_20070322.pdf](http://openers.cdt.org/rpts/RS22629_20070322.pdf).



the state bills impose new documentation requirements on U.S. citizens, not only to obtain services and driver's licenses, but also to vote. The document requirements for voters appeared in Arizona's Proposition 200 and were copied in dozens of other state bills. Civil rights groups challenged these rules, comparing them to the long decried barriers (such as "poll taxes") that historically prevented African Americans and other minorities from voting.<sup>41</sup> Where enacted, the document requirements impeded access to the polls for U.S. citizens, most significantly for voters of color, rural residents, and seniors. After such requirements were imposed in Arizona, at least 5,000 eligible U.S. citizens were unable to register to vote.<sup>42</sup> A recent study indicates that voter identification requirements reduced participation by Latinos in the voting process by 10 percent and African American participation by almost 6 percent.<sup>43</sup>

In the states where the new verification requirements were enacted, undocumented immigrants already were ineligible for most services. The re-

strictive document rules impeded access instead to eligible citizens and lawfully present noncitizens. Colorado, for example, *no longer accepted even a U.S. passport as supporting documentation to obtain a driver's license*. In a report by 18 departments to the state's Joint Budget Committee, state agencies concluded that the verification requirements had produced over \$2 million in increased costs, without any identifiable savings.<sup>44</sup> The law produced other unintended consequences for the state's eligible residents: A state senator's 15-year-old citizen daughter was prevented from securing a driver's license;<sup>45</sup> a couple who had been naturalized citizens for decades could not secure a driver's license even though they had U.S. passports and a Georgia driver's license;<sup>46</sup> and an 84-year-old woman had trouble obtaining a rebate for her low-flow toilet. Advocates also documented the harm the law's provisions caused to homeless individuals, persons with disabilities, and domestic violence survivors.<sup>47</sup>

Even where legislation failed or did not alter eligibility, the publicity surrounding the measures profoundly affected access to services, promoting fear, confusion, and hostility toward immigrant families. Since 85 percent of immigrant households include at least one U.S. citizen, any measure target-

<sup>41</sup> See, e.g., Mexican American Legal Defense and Educational Fund, "Voter Identification and Citizenship Bills Resource Kit," [www.maldef.org/pdf/ResourceKit.pdf](http://www.maldef.org/pdf/ResourceKit.pdf). See also Kavan Peterson, "Are You a Citizen? Prove It," WWW.STATELINE.ORG, Jan. 8, 2007), [www.stateline.org/live/details/story?contentId=168723](http://www.stateline.org/live/details/story?contentId=168723) (judge who struck Georgia's voter identification law compared it to the Jim Crow era poll tax). But see *Gonzalez v. Yes on Proposition 200* (9th Cir., April 20, 2007) (upholding denial of preliminary injunction, which rejected the argument that Arizona's citizenship verification requirement for voters constitutes a "poll tax" as well as other claims — and holding that the merits of the case should be considered in the context of a more fully developed record).

<sup>42</sup> See "Prop. 200 Having Little Effect on Illegal Migrants," ARIZONA REPUBLIC, June 6, 2005 (primary impact of state anti-immigrant ballot measure was to prohibit "5,000 Arizonans — most newly transplanted and none believed to be in the country illegally" — from registering to vote).

<sup>43</sup> Christopher Drew, "Lower Voter Turnout Is Seen in States That Require ID," NEW YORK TIMES, Feb. 21, 2007; Eagleton Institute of Politics, Rutgers State University of New Jersey, Presentation to U.S. Election Assistance Commission, Feb. 8, 2007.

<sup>44</sup> Mark P. Couch, "Colorado Immigration Law Falls Short of Goal; State Agencies: \$2 Million Cost and No Savings," DENVER POST, Jan. 25, 2007, [www.denverpost.com/ci-5081255](http://www.denverpost.com/ci-5081255).

<sup>45</sup> April M. Washington, "Feds, DMV at Odds over Passport's Validity as ID," ROCKY MOUNTAIN NEWS, Oct. 30, 2006.

<sup>46</sup> April M. Washington, "Colorado ID a Bumpy Ride: Couple Spin Wheels in Catch-22 of Tougher Immigration Laws," ROCKY MOUNTAIN NEWS, Nov. 24, 2006.

<sup>47</sup> See, e.g., *Hill v. Cooke* (D. Denver, filed Nov. 16, 2006) (seeking to invalidate the state's "two document" rule restricting access to driver's licenses and ID cards, and noting that the harm from the rule was exacerbated by the restrictive benefits law). On Dec. 15, 2006, the court enjoined the rule, because it was promulgated in violation of Colorado's Administrative Procedure Act.

ing immigrants inevitably affects citizens.<sup>48</sup> The harm and unintended consequences of these measures is palpable in Arizona, Colorado, and Georgia, as it was in California after the passage of Proposition 187.<sup>49</sup> After Proposition 200 was approved, Arizona witnessed drops in clinic visits and in the number of people accessing WIC, the supplemental nutrition program for women, infants and children, and increased confusion regarding whether children should attend school — even though the proposition did not address these particular services.<sup>50</sup> Passage of Georgia's comprehensive immigration bill, most of which has not yet been implemented, has generated significant confusion, prompting inappropriate denials of health services to immigrant families (including to U.S. citizen children within

<sup>48</sup> Michael Fix, Wendy Zimmerman, and Jeffrey Passel, *THE INTEGRATION OF IMMIGRANT FAMILIES IN THE UNITED STATES* (Urban Institute, July 2001), [www.urban.org/publications/410227.html](http://www.urban.org/publications/410227.html).

<sup>49</sup> California's Proposition 187, passed in 1994, sought to deny a range of services to undocumented people and to require agencies to report suspected undocumented immigrants to federal authorities. Most of the initiative was enjoined immediately by a federal court and was never implemented. *LULAC v. Wilson*, 908 F. Supp 755 (CD Cal 1995); 997 F.Supp. 1244 (CD Cal 1997); 1998 U.S. Dist Lexis 3418 (Mar. 13, 1998). But the hostility and confusion it caused produced a rise in hate crimes and chilled access to critical services for immigrant families. See, e.g., Fenton, Catalano and Hargreaves, "Effect of Proposition 187 on Mental Health Service Use in California: A Case Study," *HEALTH AFFAIRS*, Vol. 15, No. 1 (1996); Fenton, Moss, Khalil, Ghattas, and Asch, "Effect of California's Proposition 187 on the Use of Primary Care Clinics," *WESTERN JOURNAL OF MEDICINE*, Vol. 166, No. 1 (Jan. 1997); *HATE UNLEASHED: LOS ANGELES IN THE AFTERMATH OF 187* (Coalition for Humane Immigrant Rights of Los Angeles, 1995); Kenneth B. Noble, "Attacks against Asian-Americans on the Rise, Especially in California," *NEW YORK TIMES*, Dec. 13, 1995.

<sup>50</sup> See, e.g., Mary Vandeveire, "Prop 200 Confusion Being Lamented: Participation Drop Seen in Services Not Affected by New Law," *ARIZONA DAILY STAR* (Tucson ed.), April 4, 2005; Elvia Diaz and Robert Sherwood, "Prop. 200's Effect Minimal: Political Fallout May Loom Large in '06 Races," *ARIZONA REPUBLIC*, June 5, 2005 (immigrants are missing medical appointments and are delivering babies elsewhere).

such families) and increased fear among community members.<sup>51</sup>

These experiences confirm that measures imposing citizenship or immigration status verification requirements have a significant impact on local communities, harming eligible citizens and lawful residents, undermining public health and safety, promoting discrimination, increasing administrative costs, and adversely affecting businesses. As state and local efforts to address immigrant-related policies continue at a rapid pace, states considering similar measures should examine these consequences carefully. Documenting the harm from restrictive laws has helped achieve reversals of immigrant health policy in Washington, Colorado, Maryland and other states, and may help set the groundwork for more favorable federal policies on access to services for immigrants.

## ■ Proliferation of Local Measures Targeting Immigrants — Often Halted Where Challenged

Following the passage of Arizona's Proposition 200 in 2004, and in the shadow of the federal immigration debate, hundreds of restrictive state bills and initiatives targeting immigrants surfaced across the country. More recently, local ordinances addressing issues related to immigrants have proliferated in the nation's cities and towns.

The local measures reached further than the state bills, regulating *private* relationships between landlords and tenants, relying on neighbors to turn in one another or to report local businesses accused of employing undocumented immigrants, declaring a city "English only," requiring that foreign flags be displayed only if accompanied by U.S. flags, and generally proposing to make life as difficult as possible for immigrants. While not the first city leader to consider such an ordinance, the mayor of Hazleton, Pennsylvania, brought this issue to the national stage

<sup>51</sup> Karina Gonzalez, "Law Spurs Fear Among Hispanics," *CHATTANOOGA TIMES FREE PRESS*, May 24, 2006.

when he declared his intent to make his town “the toughest place on illegal immigrants in America.”<sup>52</sup>

To bolster their claims that immigrants drain services, proponents of such measures have attempted to broaden the concept of “public benefits” to include even private relationships between landlords and tenants. Some of the ordinances require landlords and tenants to apply for city licenses or “occupancy permits” — mandating that the immigration status of tenants be verified before the parties are permitted to engage in business with each other. Such a construct reaches far beyond the traditional notion of “public benefits” and is intended instead to control immigration to these towns. Although the measures have faced immediate challenge in state and federal courts, they were replicated as proposals in over a hundred towns or cities in at least 30 states. About 40 of these ordinances passed, while approximately 30 were either defeated or tabled indefinitely, due in part to concerns about their legality.<sup>53</sup>

Some of the ordinances can be viewed as a negative response to dramatic changes in a town’s composition. During the 1990s, immigration to the U.S. grew rapidly.<sup>54</sup> As processing delays, ceilings on

refugee admissions, and other barriers to adjusting immigration status reduced the number of people admitted to the U.S. as lawful permanent residents, the number and portion of people from abroad entering the country without documents grew. Rather than heading to states with traditionally large foreign-born populations, the new arrivals tended to migrate to a diverse array of new destinations where job opportunities were more abundant and where housing and other living costs were lower.<sup>55</sup> Many towns and cities, faced with a rapid influx of new immigrant residents, were unprepared to respond effectively to the changes that they brought or to understand what these changes signified.

A number of localities pursued policies aimed at helping immigrants participate meaningfully in the towns’ economic and social life and ensuring that longer-time residents could benefit from the incorporation of newcomers. However, other towns and cities took a very different approach. Residents, uncomfortable with the shift in demographics, often assumed that the new immigrants were undocumented and that they were simply straining local resources rather than fueling the local economy. Some expressed a need to take control of their towns, to preserve or restore the old order. Supported by national restrictionist groups, these towns attempted to enact their own immigration policies aimed at forcing the new residents to move away, discouraging other immigrants from coming, or sending a message that the federal government needs to address the broken immigration system.

### Legal Challenges to Restrictive Local Measures

Several courts have determined that the local measures raise serious constitutional questions, and they have halted implementation of the challenged ordinances. The American Civil Liberties Union, the Puerto Rican Legal Defense and Education

<sup>52</sup> Michael Powell and Michelle Garcia, “Pennsylvania City Puts Illegal Immigrants on Notice,” WASHINGTON POST, Aug. 22, 2006 (anticipating the court challenges, fundraising for defending the ordinances began immediately, with one such website created by Senator Rick Santorum’s staff persons in Pennsylvania).

<sup>53</sup> Information compiled by the National Immigration Law Center. See also DATABASE OF RECENT LOCAL ORDINANCES ON IMMIGRATION (Fair Immigration Reform Movement, Mar. 10, 2007), [http://64.243.188.204/CCCFTP/local/3.10.07\\_data\\_base.doc](http://64.243.188.204/CCCFTP/local/3.10.07_data_base.doc).

<sup>54</sup> Jeffrey S. Passel and Roberto Suro, RISE, PEAK AND DECLINE: TRENDS IN U.S. IMMIGRATION 1992–2004 (Pew Hispanic Center, Sept. 27, 2005), <http://pewhispanic.org/reports/report.php?ReportID=53> (inflows declined substantially after 2001, coinciding with economic downturns in the U.S., bouncing back in 2004, as the economy improved, indicating that labor is a powerful force affecting migration flows, along with family networks in the U.S. and other factors).

<sup>55</sup> *Id.* See also Jeffrey S. Passel and Wendy Zimmerman, ARE IMMIGRANTS LEAVING CALIFORNIA? SETTLEMENT PATTERNS OF IMMIGRANTS IN THE LATE 1990S (Urban Institute, April 1, 2001), [www.urban.org/url.cfm?ID=410287](http://www.urban.org/url.cfm?ID=410287).

Fund, the Mexican American Legal Defense and Educational Fund, pro bono counsel, and other legal groups filed lawsuits challenging ordinances passed by local governments, including **Hazleton, Pennsylvania**;<sup>56</sup> **Valley Park, Missouri**;<sup>57</sup> **Farmers Branch, Texas**;<sup>58</sup> **Escondido, California**;<sup>59</sup> **Riverside, New Jersey**;<sup>60</sup> and **Cherokee County,**

<sup>56</sup> A federal judge blocked enforcement of the ordinance pending the outcome of a trial, held in March 2007. *Lozano v. City of Hazleton*, 459 F.Supp.2d 332 (M.D. Penn. Oct. 31, 2006).

<sup>57</sup> A coalition of landlords, with the Metropolitan St. Louis Equal Housing Opportunity council, challenged Valley Park's ordinance targeting businesses and landlords. The ordinance was amended to remove an "English only" provision, and a second version was passed. A state court judge temporarily suspended enforcement of the ordinances. *Reynolds v. City of Valley Park* (Mo. Cir. St. Louis, Sept. 27, 2006). See also P.J. Huffstutter, "Missouri Town Tests Anti-Immigrant Laws," LOS ANGELES TIMES, Mar. 1, 2007. On Mar. 12, 2007, the judge found that the ordinances conflicted with state law, declared them "void in their entirety," and permanently enjoined them.

<sup>58</sup> A state judge blocked enforcement of the Farmers Branch ordinance. *Vasquez v. City of Farmer's Branch* (N.D. TX Jan. 11, 2007). The city council voted to repeal it, replacing it with a new ordinance that could go into effect only if voters approve it during a special election scheduled for May 2007. Although voters approved the subsequent measure, a federal district court issued a temporary restraining order halting the measure, finding that it violates the Supremacy Clause of the U.S. Constitution. *Villas At Parkside Partners v. The City of Farmers Branch* (N.D. TX May 21, 2007).

<sup>59</sup> After a federal judge blocked enforcement of Escondido's ordinance providing that landlords who rent to undocumented immigrants be subject to fines, the city consented to a permanent injunction halting enforcement of the ordinance and to a payment of \$90,000 in attorney fees. *Garrett v. City of Escondido* (S.D. Cal. Dec.15, 2006). See also Michael Rubinkam, "Measures Targeting Illegal Immigrants Face Early Legal Setbacks," ASSOCIATED PRESS, Jan. 20, 2007.

<sup>60</sup> Riverside has not enforced the ordinance, but a lawsuit filed by a coalition of business owners, landlords, and residents asserts that the measure is not authorized by state law and violates the state constitution. *Riverside Coalition of Business Persons v. City of Riverside* (D.N.J., complaint filed Oct.18, 2006).

**Georgia**.<sup>61</sup> To date, ordinances in all of these localities have been halted by the courts, enjoined by agreement of both parties, or placed on hold pending the outcome of other lawsuits.<sup>62</sup>

The lawsuits challenged the immigrant restrictions on rental housing and, in some cases, local regulations on employment of noncitizens. Civil rights groups argued that the ordinances were an unconstitutional attempt to implement local immigration policies. They explained that the federal government, not the states or cities, is authorized to regulate immigration.<sup>63</sup> State or local rules that conflict with federal rules or encroach on the federal government's exclusive role violate the U.S. Constitution's Supremacy Clause. The cases also raised issues such as denial of due process and equal protection, and violations of the Contract Clause, the First Amendment, federal fair housing law, and state laws.

Other jurisdictions, fearing high litigation costs and negative effects on local businesses, have reconsidered their plans for implementing these ordinances.<sup>64</sup> Even where the measures failed, the

<sup>61</sup> Cherokee County consented to an entry of a temporary restraining order preventing enforcement and staying litigation pending the resolution of challenges to similar ordinances. *Stewart v. Cherokee County* (N.D.GA, Jan. 4, 2007).

<sup>62</sup> More information on these lawsuits is available on the following websites: [www.aclu.org/immigrants/discrim/27848res20070105.html](http://www.aclu.org/immigrants/discrim/27848res20070105.html) (American Civil Liberties Union) and [www.prldef.org](http://www.prldef.org) (Puerto Rican Legal Defense and Education Fund).

<sup>63</sup> See also *Louisiana v. Barrientos* (LA 24th Jud. Dist. Jan. 31, 2007) (ruling that Louisiana law making it a felony to drive while undocumented was an unconstitutional state attempt to regulate immigration).

<sup>64</sup> "In New Jersey, Many Anti-Immigration Laws Crumble under High Costs," ASSOCIATED PRESS, Dec. 11, 2006. The City of Escondido, for example, paid \$90,000 in legal fees and estimated that its own legal fees could rise from \$150,000 to over a \$1 million in addition to plaintiffs' fees if the litigation were to continue. Michael Rubinkam, "Measures Targeting Illegal Immigrants Face Early Legal Setbacks," ASSOCIATED PRESS, Jan. 20, 2007; "Fact Sheet on



debate and accompanying publicity fueled a hostile climate, which created new problems for the cities that considered them. Most recently, provisions from the embattled local ordinances have been copied into state bills (e.g., in Missouri and Tennessee).

Proponents of the measures targeting immigrants attempted to justify them with exaggerated claims about the negative effect of immigration on local communities. Some Farmers Branch, Texas, residents, for example, asserted that immigrants increased the crime rate and reduced property values. In fact, however, the town's crime rate dropped by 27 percent from 1995 to 2005, while the average value of a home increased by 63 percent.<sup>65</sup> Similar allegations fueled the Hazleton ordinance. In granting a temporary restraining order halting the Hazleton measure, the judge evaluated the city's claim that the presence of undocumented people was causing crime. The mayor had presented no evidence to support this claim, and the judge cited sources that refute this notion.<sup>66</sup> Indeed, a recent national study reveals that immigrants are less likely than native-born residents to be incarcerated for crimes.<sup>67</sup> Other accusations by Hazleton's mayor

---

Local Ordinance Litigation" (American Civil Liberties Union Immigrants' Rights Project, Jan. 2007).

<sup>65</sup> Patrick McGee, "Public Opinion Doesn't Follow the Numbers," FORT WORTH STAR TELEGRAM, Feb. 5, 2007.

<sup>66</sup> *Lozano v. City of Hazleton*, 459 F. Supp.2d 332, 336 (M.D. PA, Oct. 31, 2006), *citing* Ellen Barry, "City Vents Anger at Illegal Immigrants," LOS ANGELES TIMES, July 14, 2006 (arrests and serious crimes reported in Hazleton decreased from 2000 to 2005, when the population of undocumented immigrants allegedly increased, according to statistics compiled by the Pennsylvania State Police Uniform Crime Reporting System). Although the mayor later was able to identify a rise in violent crime, plaintiffs' attorneys pointed out that he had not linked the majority of these crimes to undocumented immigrants and that the overall crime rate dropped during this period. Michael Rubinkam, "Hazleton Illegal Immigrant Trial Ends," ASSOCIATED PRESS, Mar. 22, 2007.

<sup>67</sup> Ruben G. Rumbaut and Walter A. Ewing, THE MYTH OF IMMIGRANT CRIMINALITY AND THE PARADOX OF ASSIMILATION: INCARCERATION RATES AMONG NATIVE AND FOREIGN BORN MEN (Immigration Policy Center, Spring

conflicted with a study finding an increase in Latino businesses and restaurants and a doubling of local real estate values during the period in which the Latino population grew significantly.<sup>68</sup>

Similarly, the study used to justify the ordinance in Escondido, California, documenting poor housing conditions, found that the "blight" was caused by a lack of affordable housing rather than the presence of immigrants.<sup>69</sup> The judge in the Escondido case pointed to recent statistics revealing a significant decline in crime. The judge found no connection between any alleged criminal activity in the city and undocumented immigrants. The court also found that the plaintiffs had raised serious constitutional concerns and therefore granted a temporary restraining order.<sup>70</sup> The parties later agreed to the issuance of a permanent injunction. After agreeing to bar implementation of its ordinance, the city of Escondido noted that the litigation revealed other practical problems, including the "lack of an assured

---

2007), [www.aifl.org/ipc/special\\_report/sr\\_022107.pdf](http://www.aifl.org/ipc/special_report/sr_022107.pdf); Paul Giblin, "Immigrants Less Likely to Commit Crimes, Study Says," EAST VALLEY TRIBUNE, Feb. 27, 2007, [www.eastvalleytribune.com/story/84831](http://www.eastvalleytribune.com/story/84831). See also declaration of Ruben G. Rumbaut, University of California at Irvine, in *Lozano v. City of Hazleton*, at [www.aclupa.org/downloads/Rumbautreportonordinance.pdf](http://www.aclupa.org/downloads/Rumbautreportonordinance.pdf).

<sup>68</sup> ETHNIC CHANGES IN NORTHEASTERN PENNSYLVANIA WITH SPECIAL EMPHASIS ON RECENT HISTORY WITHIN THE CITY OF HAZLETON (Joint Urban Studies Center, July 2006), [www.urbanstudies.org/Research/diversity0906.pdf](http://www.urbanstudies.org/Research/diversity0906.pdf). Indeed, the town's own website declared that recent immigration invigorated the local economy. Kent Jackson, "City Turns 150 This Week," STANDARD-SPEAKER, April 16, 2006, *cited in* Plaintiffs' Memorandum of Law in Support of Motion for Preliminary Injunction and Temporary Restraining Order, *Lozano v. Hazleton* (M.Dist. Penn., Oct. 30, 2006). See also Michael Vitez, "Small Town, Big Conflict," THE PHILADELPHIA INQUIRER, June 23, 2006 (Mayor Barletta admits that newly arrived Latinos have invigorated the town).

<sup>69</sup> See Harry Jones, "Councilman Disputes Author's Claim Ordinance Based on Mission Park Study," SAN DIEGO UNION TRIBUNE, Oct. 18, 2006 (author declared that her study was misinterpreted and was used to reach conclusions that were not supported by the facts).

<sup>70</sup> *Garrett v. City of Escondido* (S.D. CA, Nov. 20, 2006).

federal database to determine the status of individuals for housing purposes.”<sup>71</sup>

### Local Jurisdictions That Rejected Restrictive Proposals

Numerous other jurisdictions considered and rejected similar measures. Examples of successful advocacy on local ordinances targeting immigrants included:

The City Council in **Avon Park, Florida**, rejected an ordinance after a five-hour meeting in which 104 speakers representing business, civic, and religious leaders spoke, while hundreds rallied outside expressing opposition to the punitive measure. The speakers noted the high moral and economic costs of the “copycat” ordinance, which did not reflect the sentiments of the town’s residents.<sup>72</sup> They urged a “solution-oriented” approach, such as offering more English classes or engaging in the federal immigration debate to help secure a pathway to lawful status for some of the town’s residents. Civil rights groups also threatened a lawsuit.

An ordinance drafted in **San Bernardino, California**, which inspired some of the Hazleton measures, was tabled after a judge determined that the proponent, Joseph Turner (founder of the anti-immigrant group “Save our State”), had not gathered enough signatures to require a vote.<sup>73</sup> Turner attempted to gather voters’ signatures after the city council rejected the proposed ordinance by a 4-3 vote. San Bernardino’s mayor had criticized the

measure, predicting that it would cost the city more than \$1 million in enforcement and lost business.<sup>74</sup> A broad coalition of local community, civil rights, Latino, and faith-based groups mobilized to oppose the ordinance, while legal organizations threatened to sue if the measure was enacted.

The mayor of **Nashville, Tennessee**, rejected a proposal to make English the “official language” of the city, declaring that, “If this ordinance becomes law, Nashville will become a less safe, less friendly and less successful city.” He added that the ordinance was unnecessary and unconstitutional, and that it would “cost hundreds of thousands of dollars to defend, for no good reason.”<sup>75</sup> Immigrant rights organizations, including the Tennessee Immigrant and Refugee Rights Coalition (TIIRC), worked with a diverse group of allies to oppose the ordinance. The Nashville Area Chamber of Commerce, for example, opposed the ordinance on the grounds that it would hurt tourism and business development efforts in the city.

Landlords and apartment owners have been prominent opponents of the laws requiring verification of tenants’ status, asserting that they are ill-equipped to navigate the complex immigration laws, and that the ordinances will subject them to claims of unlawful discrimination and harm to their business. The U.S. Chamber of Commerce submitted an amicus brief in the Hazleton case, pointing out that the local rules for employers are preempted by federal laws and deny businesses a fair opportunity to contest an alleged violation. In its brief, the Chamber asserted that the procedures under which city officials, businesses, or residents file a complaint regarding persons suspected of being undocumented conflict with federal antidiscrimination laws and guidance (which prohibit discrimination against persons based on foreign appearance, accent, language, or name).

<sup>71</sup> J. Harry Jones, “Escondido Scuttles Rental Law: Deal Ends Lawsuit, Blocks Enforcement of Ordinance,” *SAN DIEGO UNION TRIBUNE*, Dec. 14, 2006; David Fried, “Escondido Rental Ban Violators May be Difficult to Document,” *NORTH COUNTY TIMES*, Oct. 6, 2006.

<sup>72</sup> Support for the “local” measures, copied from other distant jurisdictions, was not always “homegrown.” A city councilor in Weymouth, Massachusetts, for example, reported that most of the e-mails in support of a local ordinance came from outside groups, not city residents. Christine Wallgren, “Proposal Targets Illegal Immigrants,” *BOSTON GLOBE*, Mar. 4, 2007.

<sup>73</sup> Miriam Jordan, “Mr. Turner vs. Home Depot,” *WALL STREET JOURNAL*, Sept. 28, 2006.

<sup>74</sup> Gillian Flaccus, “San Bernardino Council Considers Illegal Immigration Measure,” *ASSOCIATED PRESS*, May 15, 2006.

<sup>75</sup> “Mayor Nixes ‘Mean-Spirited’ English Only Bill,” *ASSOCIATED PRESS*, Feb. 13, 2007.

Despite the many effective efforts to oppose restrictive ordinances, some of the measures appear to have achieved their crudest short-term objective: to drive immigrants out of town. Residents of Riverside, New Jersey, estimate, for example, that in the months following passage of its ordinance, approximately one third of the immigrants living in the township moved away. The impact of this exodus fell on businesses, some of which saw sales decline by as much as 50 percent.<sup>76</sup> Stores, restaurants, apartments, and other businesses catering to Latinos in Farmers Branch similarly reported declines in business of 20 to 50 percent since the passage of the ordinances there, as customers flocked to nearby towns. The business owners noted that they are losing customers who speak English and have documents, but who “felt affected” by the town’s events.<sup>77</sup> As the debate on these ordinances continues, the harmful and sometimes unintended consequences on the local economy, public health and safety, and quality of life for the remaining town residents are emerging.

## ■ Investing in Immigrants: States and Counties Provide Services

During the same period in which the anti-immigrant measures circulated, many states with more longstanding immigrant populations *expanded* access to services: Illinois implemented its All-Kids initiative for children, extending health coverage to children of all income levels, regardless of immigra-

tion status; Massachusetts passed a health reform measure that covers some immigrants who are not eligible for federal programs; and California counties continued to expand access to health coverage for immigrant children. Hawaii, New York, and California took steps to improve access to services for persons with limited English proficiency. Several states, including California, New York, and Pennsylvania, are considering sweeping health reforms, including proposals that cover at least some immigrants ineligible for federal coverage.

In March 2007, **Washington’s** governor signed a measure, which takes effect July 1, 2007, providing health coverage to children regardless of immigration status in families earning up to 250 percent of the federal poverty level.<sup>78</sup> **New York’s** 2007 budget provides free or low-cost coverage under the Child-Health Plus program to children in families earning up to 400 percent of the federal poverty level.<sup>79</sup> And **Hawaii’s** governor is considering a bill that would create a three-year pilot program to cover children regardless of their immigration status.

More than half of the states currently spend their own funds to provide services to at least some immigrants who are ineligible for federal services.<sup>80</sup> A growing number, recognizing that providing preventive care is an effective public health strategy,<sup>81</sup>

<sup>76</sup> “Businesses Sue Riverside, New Jersey, Over Vague, Discriminatory Anti-Immigrant Ordinance” (American Civil Liberties Union, Oct. 18, 2006), [www.aclu.org/immigrants/discrim/27107prs20061018.html](http://www.aclu.org/immigrants/discrim/27107prs20061018.html). See also “Measures Targeting Illegal Immigrants Face Early Legal Setbacks,” ASSOCIATED PRESS, Jan. 20, 2007 (business districts in Hazleton, Farmer’s Branch, and Riverside report steep declines in revenues); “Anti-Immigrant Ordinances Bad for Business in Small Towns” (People for the American Way, Aug. 25, 2006), [www.rightwingwatch.org/2006/08/antiimmigrant\\_o\\_1.html](http://www.rightwingwatch.org/2006/08/antiimmigrant_o_1.html) (both new and traditional business owners in Riverside experienced significant losses).

<sup>77</sup> Thomas Korosec, “State Judge Halts Illegal Immigrant Rental Ban,” HOUSTON CHRONICLE, Jan. 12, 2007.

<sup>78</sup> In January 2009, the state plans to cover children in families earning up to 300 percent of the federal poverty level, regardless of immigration status, subject to appropriation. Final Bill Report on SB 5093.

<sup>79</sup> Children in families with higher incomes can buy into this program at a group rate. See also Richard Perez-Pena, “A Budget With a Breakthrough in Child Health Care,” NEW YORK TIMES, April 2, 2007.

<sup>80</sup> See the information on state-funded benefits that is available from “Update Page: GUIDE TO IMMIGRANT ELIGIBILITY FOR FEDERAL PROGRAMS” (NILC), [www.nilc.org/pubs/Guide\\_update.htm](http://www.nilc.org/pubs/Guide_update.htm).

<sup>81</sup> See, e.g., COMPREHENSIVE HEALTH CARE FOR IMMIGRANTS: A SOUND STRATEGY FOR FISCAL AND PUBLIC HEALTH (NILC, July 2004), [www.nilc.org/immspbs/health/Issue\\_Briefs/comphealthcare\\_0404.pdf](http://www.nilc.org/immspbs/health/Issue_Briefs/comphealthcare_0404.pdf); Sarita Mohanty, “Unequal Access: Immigrants and U.S. Health Care,” IMMIGRATION POLICY IN FOCUS, July 2006,

have eliminated immigration status as a prerequisite for public health coverage in programs serving children and/or pregnant women. Some states have invested in the future by ensuring that graduates of their high schools who attend state colleges or universities are eligible, regardless of their immigration status, for the tuition rates paid by students with strong ties to the state. Other states and counties offer English language instruction, naturalization assistance, and civic participation services, or require that services be linguistically accessible. For example:

**Illinois** Governor Rod Blagojevich implemented the New Americans Executive Order, establishing an Office of New Americans and developing recommendations on how to integrate immigrants more effectively into the state's economic and civic life. This executive order builds upon immigrant integration initiatives already in progress in Illinois, such as preschool for children regardless of income or immigration status and funding for naturalization assistance.<sup>82</sup>

**California** codified its naturalization assistance program and extended access to state and local services to survivors of trafficking and other serious crimes.

---

[www.aifl.org/ipc/infocus/unequal\\_access.shtml](http://www.aifl.org/ipc/infocus/unequal_access.shtml). Rhode Island's governor, on the other hand, terminated health coverage for immigrant children who are ineligible for federal services. The state legislature retained coverage for children who were enrolled by Dec. 31, 2006, or receiving assistance under the state's Family Independence Program. Health care providers and advocates are working to restore coverage for all children, which had been available in the state for over a decade.

<sup>82</sup> FOR THE BENEFIT OF ALL: STRATEGIC RECOMMENDATIONS TO ENHANCE THE STATE'S ROLE IN THE INTEGRATION OF IMMIGRANTS IN ILLINOIS: JOINT EXECUTIVE SUMMARY, YEAR ONE (Office of New Americans Advocacy and Policy and Illinois Coalition for Immigrant and Refugee Rights, December 2006), [www.icirr.org/naeo/docs/jointsummary.pdf](http://www.icirr.org/naeo/docs/jointsummary.pdf) (recommendations covered areas such as English acquisition, citizenship, education, health care, human services, security, entrepreneurship, workforce development, home ownership and housing).

**New York** issued new regulations requiring hospitals to provide interpreting and translating services for patients with limited English proficiency.<sup>83</sup>

**Hawaii** enacted a law requiring state agencies to provide accessible services to persons with limited English proficiency.<sup>84</sup>

**Wisconsin** and **Texas** joined 11 other states that provide prenatal care to women regardless of their immigration status through a public health insurance program.

**Illinois** extended and expanded its state cash assistance program for refugees and other "humanitarian" immigrants who face termination of their federal Supplemental Security Income (SSI).

**Nebraska** joined 9 other states that have passed laws providing the in-state tuition rate to students who attended high school in Nebraska for a certain number of years and who also earned a high school degree or a GED in the state, regardless of their immigration status.

## ■ A Range of Strategies Were Effective in Maintaining or Restoring Services

In recent years, advocates have learned that various approaches — community organizing, alliance building, legislative advocacy, litigation, and documenting the costs of harmful measures or the advantages of policies that maximize immigrant contributions — work together effectively.

Washington State restored Medicaid look-alike coverage for all children, regardless of immigration status, after health providers and advocates documented the administrative, individual, and public health costs of cutting this care.<sup>85</sup> After litigation

---

<sup>83</sup> New York allocated \$76 million in its 2007 budget (to be spent over two years) to improve the ability of private non-profit hospitals to communicate with patients who are limited English-proficient (LEP).

<sup>84</sup> H.B. 2778 (2006).

<sup>85</sup> See, e.g., Mark Gardner and Janet Varon, MOVING IMMIGRANTS FROM A MEDICAID LOOK-ALIKE PROGRAM TO



delayed the implementation of planned cuts in immigrants' eligibility for federal Medicaid and some state-funded medical coverage, the Colorado legislature restored eligibility for these programs.<sup>86</sup> When the same legislature then enacted another restrictive bill, advocates and agencies began to record the consequences. They are working with administrative agencies and the legislature to minimize the impact of the new law and are challenging the documentation requirements that have harmed homeless individuals, domestic violence survivors, seniors, persons with disabilities and other eligible families.

Where potentially harmful bills or initiatives passed, advocates and agencies were able to mitigate their effects. For example, after Proposition 200 passed in Arizona, state officials and agencies interpreted the provisions narrowly. State agencies in Virginia reached similar conclusions about the benefits law enacted in that state in 2005.

### Advancing Positive Messages

In supporting affirmative policies with respect to immigrants, advocates created opportunities to promote positive messages. The Tennessee Immigrant and Refugee Rights Coalition (TIRRC) launched a "Welcoming Tennessee" campaign, featuring billboards, educational forums, welcoming committees, and other efforts to promote understanding and dialogue among communities on immigrant issues. Across the U.S., advocates compiled research documenting immigrant contributions to the economy, workforce, the Social Security trust

fund, and the military,<sup>87</sup> and developed materials highlighting immigrant contributions to their states.<sup>88</sup>

Where a campaign such as a children's health coverage expansion succeeded, advocates documented the benefits of the new policy. California counties, for example, recorded the positive outcomes of extending coverage to all low-income children: enrolling previously eligible siblings of newly covered children into federally funded programs, positive public health indicators, reductions in disease, improvements in children's health, and the relative cost-effectiveness of providing preventive care to children.<sup>89</sup> In defending and promoting access to

<sup>87</sup> See e.g., Shawn Fremstad, "Paying Their Way and Then Some: Facts about the Contributions of Immigrants to Economic Growth and Public Investment," IMMIGRANTS' RIGHTS UPDATE, Sept. 29, 2006, [www.nilc.org/immspbs/research/research003.htm](http://www.nilc.org/immspbs/research/research003.htm); Giovanni Peri, "How Immigrants Affect California Employment and Wages," CALIFORNIA COUNTS: POPULATION TRENDS AND PROFILES, Vol. 8, No. 3, Feb. 2007, [www.ppic.org/content/pubs/cacounts/CC\\_207GPCC.pdf](http://www.ppic.org/content/pubs/cacounts/CC_207GPCC.pdf) (immigration produced a 4 percent wage increase for the average native worker in California from 1990 to 2004); Randy Capps, Everett Henderson, Jeffrey S. Passel, Michael Fix, CIVIC CONTRIBUTIONS: TAXES PAID BY IMMIGRANTS IN THE WASHINGTON, DC, METROPOLITAN AREA (Urban Institute, Pew Hispanic Center, and Migration Policy Institute, May 2006), [www.urban.org/url.cfm?ID=411338](http://www.urban.org/url.cfm?ID=411338) (immigrants in the Washington, DC, area paid almost \$10 billion in taxes in 1999–2000).

<sup>88</sup> See, e.g., LOOKING FORWARD: IMMIGRANT CONTRIBUTIONS TO THE GOLDEN STATE (California Immigrant Policy Center, 2005), [www.caimmigrant.org/source/Immigrant\\_contribution.pdf](http://www.caimmigrant.org/source/Immigrant_contribution.pdf); UNDOCUMENTED IMMIGRANTS IN TEXAS: A FINANCIAL ANALYSIS OF THE IMPACT TO THE STATE BUDGET AND ECONOMY (Texas Office of the Comptroller, Dec. 2006), [www.window.state.tx.us/specialrpt/undocumented](http://www.window.state.tx.us/specialrpt/undocumented) (the absence of undocumented immigrants in Texas in FY 2005 would have caused a loss of \$17.7 billion to the state; state revenues collected from undocumented immigrants exceed state expenditures on services by \$424.7 million).

<sup>89</sup> See, e.g., Embry Howell and Christopher Trenholm, SANTA CLARA COUNTY CHILDREN'S HEALTH INITIATIVE IMPROVES CHILDREN'S HEALTH (Mathematica Policy

BASIC HEALTH IN WASHINGTON STATE: EARLY OBSERVATIONS (Kaiser Commission on Medicaid and the Uninsured, May 2004), [www.kff.org/medicaid/7079a.cfm](http://www.kff.org/medicaid/7079a.cfm); CONDITION CRITICAL: WASHINGTON'S CURABLE CHILDREN'S HEALTH CRISIS (Children's Alliance, Dec. 2004), [www.childrealliance.org/4Download/CondCritical.reditfinal.pdf](http://www.childrealliance.org/4Download/CondCritical.reditfinal.pdf).

<sup>86</sup> See "Colorado Legislature Votes to Restore Medicaid Eligibility for Immigrants," IMMIGRANTS' RIGHTS UPDATE, Feb. 10, 2005, [www.nilc.org/immspbs/health/health032.htm](http://www.nilc.org/immspbs/health/health032.htm).

services for immigrants, advocates shared talking points, political strategies, and positive editorials, and developed fact sheets and issue briefs to debunk myths that immigrants are the source of broader problems, such as the lack of affordable health insurance.<sup>90</sup>

### Importance of Broad Coalitions

The campaigns to defeat anti-immigrant bills relied on broad coalitions, underscoring the need to convey the message that restrictive policies harm a wide range of interests.<sup>91</sup> The scope of the local ordinances — which convert landlords, employers, and local police into immigration agents — also produced new partners with an interest in defeating them. They explained that the measures targeting immigrants undermine local law enforcement's ability to protect public safety. They appealed to the spirit of community that contrasts with policies that turn neighbors against one another. They exposed the tarnished sources of funding on which some of

the restrictionist groups rely, as well as their links to groups that promote white supremacy.<sup>92</sup> The challenges to local ordinances provided an opportunity to evaluate the rationales used in proposing them. The information revealed during the course of the lawsuits helped to convince other localities to reconsider. When the climate created by these ordinances caused a drop in business, this too gave cities and towns grounds to pause.

Many towns enacted positive resolutions, calling for comprehensive immigration reform at the federal level, opposing an enforcement-only approach to federal immigration reform, protecting the privacy of their residents, expanding access to services, and otherwise recognizing immigrants as an integral part of the community. Affirmative campaigns also highlighted increases in naturalization<sup>93</sup> and voter

---

Research Inc, University of California at San Francisco, and Urban Institute, Mar. 2007), [www.mathematica-mpr.com/publications/PDFs/CHIimproves.pdf](http://www.mathematica-mpr.com/publications/PDFs/CHIimproves.pdf).

<sup>90</sup> See, e.g., IMMIGRANTS AND THE U.S. HEALTH CARE SYSTEM (California Immigrant Policy Center, Sept. 2006), [www.caimmigrant.org/source/ImmigrantsHealthCareSingle.pdf](http://www.caimmigrant.org/source/ImmigrantsHealthCareSingle.pdf). See also Leighton Ku and Demetrios Papademetriou, "Access to Health Care and Health Insurance: Immigrants and Immigration Reform," SECURING THE FUTURE: U.S. IMMIGRANT INTEGRATION POLICY, A READER (Migration Policy Institute, Feb. 2007); Jeffrey S. Passel and Wendy Zimmerman, ARE IMMIGRANTS LEAVING CALIFORNIA?: SETTLEMENT PATTERNS OF IMMIGRANTS IN THE LATE 1990S (Urban Institute, 2001), [www.urban.org/url.cfm?ID=410287](http://www.urban.org/url.cfm?ID=410287) (during the late 1990s, immigrants moved from traditional states such as California, with generous benefits policies, to "new growth" states in the Midwest and Southeast that offered very few benefits to immigrants but where job opportunities were more abundant).

<sup>91</sup> Over 50 anti-immigrant bills were introduced in Virginia's state legislature in early 2007. Advocates attributed much of their success in defeating the overwhelming number of these measures to bringing a broad coalition together — including business where affected; mainstream organizations; religious, educational, and charitable groups; citizens of color; and a multi-ethnic range of immigrant communities.

---

<sup>92</sup> See, e.g., DEFEND COLORADO NOW (Center for New Community special report, June 2006), [www.buildingdemocracy.org/reports/defendcoloradonow.pdf](http://www.buildingdemocracy.org/reports/defendcoloradonow.pdf) (Colorado restrictionist group's largest single contributor was a group espousing white supremacy); CNC SPECIAL REPORT: AMERICANS FOR LEGAL IMMIGRATION (ALI-PAC): XENOPHOBIA, NATIVISM AND ANTI-IMMIGRANT HYSTERIA (Center for New Community special report, June 2005), [www.buildingdemocracy.org/ali-pac.pdf](http://www.buildingdemocracy.org/ali-pac.pdf) (linking North Carolina-based ALI-PAC to national and local restrictionist groups that are funded heavily by white nationalist organizations); FEDERATION FOR AMERICAN IMMIGRATION REFORM (FAIR) (Center for New Community special report, Nov. 2004), [www.buildingdemocracy.org/reports/fair2004.pdf](http://www.buildingdemocracy.org/reports/fair2004.pdf) (national restrictionist organization received over \$1 million from the Pioneer fund, which supports eugenics research). See also Alexander Luft, "Hate Groups Benefit from Battle over Illegal Immigration," MISSOURIAN, Mar. 8, 2007; Jennifer Ludden, "Supremacist Groups Take Up Immigration Issue," MORNING EDITION, National Public Radio, Mar. 6, 2007, [www.npr.org/templates/story/story.php?storyId=7725295&sc=emaf](http://www.npr.org/templates/story/story.php?storyId=7725295&sc=emaf).

<sup>93</sup> Mike Madden, "Backlash Fears Drive Efforts to Naturalize," ARIZONA REPUBLIC, Feb. 23, 2007 (more immigrants applied to become U.S. citizens last year than in any year since 1999, due primarily to the debate over immigration); Jeffrey Passel, GROWING SHARE OF IMMIGRANTS CHOOSING NATURALIZATION (Pew Hispanic Center, Mar. 28, 2007), <http://pewhispanic.org/reports/report.php?ReportID=74> (the proportion of lawfully present foreign-

participation among newly naturalized citizens, and the political harm that flows from targeting immigrants or Latinos. The significant drop in Latino support for Republicans during the 2006 elections, for example, was linked directly to prominent party members' support for anti-immigrant measures. In California, the political consequences of targeting immigrants and Latinos changed the political landscape, and the effects of this change have remained evident for over a decade.<sup>94</sup>

## ■ Policies that Promote Immigrant Integration

Increasingly, state and local governments, working with health care and social service providers, labor, insurance and immigrant groups, have advanced policies that promote immigrant integration and protect against discrimination. In addition to expanding access to services, states and towns are adopting measures to protect the health and safety of all workers and create an environment where families feel safe in reporting crime or approaching government agencies, or they are advocating for improved federal immigration policies. These local policies recognize that investing in the health and safety of immigrant families will maximize their contributions, ensuring that workers remain pro-

born residents who naturalized rose to 52 percent in 2005, the highest level in 25 years, and a 14 percent increase since 1990).

<sup>94</sup> The 1994 campaign of California's former governor, Pete Wilson, against undocumented immigrants and his promotion of Proposition 187 was widely viewed as an attack on Latinos. Although the proposition — which a federal court enjoined almost in its entirety — was never implemented, its political legacy has endured. Latinos in California naturalized and registered to vote in record numbers, and Republicans were shut out of statewide office for at least 10 years. See, e.g., "Ghost of Proposition 187 Looms," OAKLAND TRIBUNE, April 4, 2006 ("Republicans were basically sent to Siberia," said the coauthor of a nonpartisan publication tracking elections, while other analysts argued that "the Democrats' ascent was driven more by preexisting demographic trends," including the growth in the voter-eligible Latino population who already leaned toward the Democrats.).

ductive and can participate in efforts to fight crime, create jobs, and improve neighborhoods. Efforts undertaken during the past several years include:

### Government Offices Promoting Immigrant Integration

Santa Clara County, California, developed Immigrant Relations and Integration Services (IRIS) to support immigrant integration programs in the county.<sup>95</sup> Modeled in part on this approach, the Illinois governor created the Office of New Americans, incorporating input from immigrant leaders, advocates, policy experts and state government agencies, with a goal of better coordinating state policies related to immigrants and immigrant integration. Massachusetts also operates an Office for Refugees and Immigrants that oversees immigrant-related policies, including naturalization assistance and integration services. Similar offices operate in other states and cities.

### Enforcement of Labor Laws

To combat incentives for employers to exploit low-wage workers, advocates in Massachusetts, New York, and other states are exploring proposals to increase funding for enforcement of labor and employment laws and to increase fines for employers that violate wage, hour, health, and safety laws.<sup>96</sup>

Illinois is considering bills that create state antidiscrimination laws protecting workers against adverse actions by employers based on the employers' use of the Basic Pilot employment eligibility verification

<sup>95</sup> For a description of the IRIS program and other promising practices in immigrant integration, see INVESTING IN OUR COMMUNITIES: STRATEGIES FOR IMMIGRANT INTEGRATION: A TOOLKIT FOR GRANTMAKERS (Grantmakers Concerned with Immigrants and Refugees, 2006), [www.gcir.org/resources/gcir\\_publications/toolkit.php](http://www.gcir.org/resources/gcir_publications/toolkit.php).

<sup>96</sup> See also recommendations in MORE HARM THAN GOOD: RESPONDING TO STATES' MISGUIDED EFFORTS TO REGULATE IMMIGRATION, *supra* note 14.

program<sup>97</sup> and receipt of the Social Security Administration's "no-match" letters.<sup>98</sup>

### Promoting Naturalization, English Language Instruction, and Civic Participation

Several states have invested in naturalization assistance and have advocated with Congress and federal agencies to address policies that impede or delay access to citizenship. Advocates in California, Illinois, Massachusetts, New York, and other states are promoting strategies for expanding access to English language and civics classes, vocational English, civic participation, and voter registration and education efforts for newly naturalized citizens.<sup>99</sup> A proposed Minnesota bill would provide a refundable income tax credit for expenses related to becoming a U.S. citizen.

### Improving Language Access Policies

Several states and cities have enacted laws and policies improving access to services for persons with limited English proficiency.<sup>100</sup> Although some of these laws and policies were adopted in response to lawsuits or administrative complaints, many were

enacted in recognition that improving communication is essential in promoting public health and safety and in ensuring that the government serves all residents. California, Maryland, and Hawaii enacted laws requiring most public agencies to be accessible to residents with limited English-speaking skills.<sup>101</sup> Several cities similarly adopted ordinances requiring agencies to offer such individuals equal access to public services.<sup>102</sup> State and local governments also adopted policies and programs to facilitate communications in specific areas: to enhance public safety and crime prevention,<sup>103</sup> improve public health,<sup>104</sup> increase access to courts,<sup>105</sup> and expand access to public safety network programs and other social services that promote self-sufficiency.<sup>106</sup>

<sup>101</sup> See California Government Code Section 7290; Maryland Senate Bill 265 (2002); and Hawaii H.B. No. 2778 (2006). Even where laws are on the books, however, intensive work on the ground is necessary to ensure the success of these policies.

<sup>102</sup> Local language access ordinances have been adopted by Oakland and San Francisco, CA, Washington, DC, and New York City. See INVESTING IN OUR COMMUNITIES, *supra* note 95.

<sup>103</sup> Susan Shah, Inshah Rahman, Anita Khashu, OVERCOMING LANGUAGE BARRIERS: SOLUTIONS FOR LAW ENFORCEMENT (Vera Institute of Justice, 2007), [www.cops.usdoj.gov/files/ric/Publications/vera\\_translating\\_justice\\_final.pdf](http://www.cops.usdoj.gov/files/ric/Publications/vera_translating_justice_final.pdf).

<sup>104</sup> Jane Perkins, Mara Youdelman, Doreena Wang, ENSURING LINGUISTIC ACCESS IN HEALTH CARE SETTINGS: LEGAL RIGHTS AND RESPONSIBILITIES, 2d ed. (National Health Law Program, Aug. 2003).

<sup>105</sup> See INCREASING ACCESS TO JUSTICE FOR LIMITED ENGLISH PROFICIENT ASIAN PACIFIC AMERICANS (National Asian Pacific American Bar Association, March 2007), [www.clsphila.org/files/IncreasingAccessMay07.pdf](http://www.clsphila.org/files/IncreasingAccessMay07.pdf) (highlighting laws, programs, and initiatives aimed at increasing the access to judicial and administrative proceedings for individuals with limited English proficiency).

<sup>106</sup> Mara Youdelman, Jane Perkins, Jamie D. Brooks, and Deborah Reid, PROVIDING LANGUAGE SERVICES IN STATE AND LOCAL HEALTH-RELATED BENEFITS OFFICES: EXAMPLES FROM THE FIELD (The Commonwealth Fund, Jan. 2007), [www.commonwealthfund.org/publications/publications\\_show.htm?doc\\_id=444660](http://www.commonwealthfund.org/publications/publications_show.htm?doc_id=444660). Washington State has been a leader in this area, translating most of documents

<sup>97</sup> See note 21, *supra*, and accompanying text.

<sup>98</sup> SSA sends "no-match" letters to employers to notify them when Social Security number information submitted for specific employees does not match SSA's records.

<sup>99</sup> See, e.g., "Program Description" (New Americans Initiative), [www.newam.imtionline.com/?page=3](http://www.newam.imtionline.com/?page=3) (efforts in Illinois); "MIV Campaign Update" (Mobilize the Immigrant Vote), [www.immigrantvoice.org/miv2004/index.htm](http://www.immigrantvoice.org/miv2004/index.htm) (efforts in California); and "Involving Immigrant New Yorkers in Civic and Electoral Processes" (New York Immigration Coalition), [www.thenycic.org/templates/documentFinder.asp?did=236](http://www.thenycic.org/templates/documentFinder.asp?did=236) (describes NYC's Newcomer Community Action Program).

<sup>100</sup> The private sector has been offering multilingual services to customers for years. See Vivek Malhotra and Theodore Wang, THE LANGUAGE OF BUSINESS: ADOPTING PRIVATE SECTOR PRACTICES TO INCREASE LIMITED-ENGLISH PROFICIENT INDIVIDUALS' ACCESS TO GOVERNMENT SERVICES (Chinese for Affirmative Action/Center for Asian American Advocacy, July 2004), [www.caasf.org/PDFs/TheLanguageofBusiness%5BCAA%5D.pdf](http://www.caasf.org/PDFs/TheLanguageofBusiness%5BCAA%5D.pdf).



Educators and advocates also are exploring projects that help limited-English proficient parents participate more effectively in their children's education.<sup>107</sup>

### **Facilitating Access to Higher Education**

In several states, individuals who attended and graduated from high school in the state and who are attending a state college or university are eligible, regardless of their immigration status, for the tuition rate paid by students with strong ties to the state. A few states also make scholarships available to these students on the same basis as other applicants.

### **Protecting Confidentiality and Promoting Safety**

Several cities and counties have developed policies to protect the privacy of all residents and ensure that they can approach local agencies without being asked unnecessary or intimidating questions about their immigration status or other personal information. New York City's Mayor Michael R. Bloomberg issued Executive Order 41 in 2003 to protect the privacy of all residents seeking assistance from city

and notices into nine languages and offering free interpretation services to its clients. Although the program was originally developed in response administrative complaints, its requirements have been incorporated into the state's administrative code and policies. *See* WAC Chapter 388 and Administrative Policy 7.21.

<sup>107</sup> *See, e.g.,* California's AB 590 (2007). A diverse group of immigrant parents and advocates in New York were able to change the education funding formula in 2007, increasing funding for English language learners to \$500 million over four years. *See also* New York City Department of Education Regulation A-663; Tucson Unified School District, Interpreter and Translator Support Services for Students and Parents/Guardians, Policy Regulation KBF-R; Los Angeles Unified School District, Oral Interpretation at an Individualized Education Program (IEP) Team Meeting, Reference Guide REF-1596; Mary Ann Zehr, "Translation Efforts a Growing Priority for Urban Schools," *EDUCATION WEEK*, Oct. 6, 2004 (describing seven school districts that have established centralized translation services); Lori Aratani, "Reaching Students' Families on Their Terms: Schools Translate Complex Texts Into Slew of Language," *WASHINGTON POST*, Jan. 24, 2006.

agencies, including victims and witnesses of crimes. The order protects persons seeking help from social service agencies, schools, hospitals, and law enforcement from being asked unnecessary questions about their sexual orientation, status as a victim of violence, income tax records, or immigration status, while providing exceptions for situations involving criminal activity.

The city of New Haven, Connecticut, aiming to create a safe environment where immigrants can work closely with local police and government agencies, implemented a system of municipal identity cards, privacy policies, assistance in navigating tax forms, and community outreach. Advocates in other cities, including Ithaca, New York, are considering similar measures, modeled on policies in cities with longer histories of incorporating significant numbers of immigrants (New York, Los Angeles, and Houston).<sup>108</sup>

Several cities and towns across the country have passed "pro-immigrant" resolutions, calling for immigration reform, opposing a punitive "enforcement only" approach to federal immigration policy or the private vigilante "minutemen" groups, highlighting the positive contributions of immigrants, and rejecting attempts to undermine community policing that results when local law enforcement agencies become involved in enforcing federal immigration laws.<sup>109</sup>

### **■ Conclusion**

Although state and local governments cannot control federal immigration policy, they can make critical choices that help address the needs of their communities. They also can advocate with Congress to increase the federal funding available to serve

<sup>108</sup> Jennifer Medina, "New Haven Welcomes a Booming Population of Immigrants, Legal or Not," *NEW YORK TIMES*, Mar. 5, 2007.

<sup>109</sup> *See, e.g.,* "Pro-Immigrant Resolutions by Elected Government Bodies" (Coalition for Comprehensive Immigration Reform), [www.cirnnow.org/content/en/proimmigrant-resolutions.htm](http://www.cirnnow.org/content/en/proimmigrant-resolutions.htm).

their residents. States and counties, for example, can support the restoration of federal health coverage and other programs to immigrants and refugees who were rendered ineligible for these services by the 1996 federal welfare law.<sup>110</sup> They can push for a more comprehensive approach to federal immigration reform, which provides more effective pathways to lawful status, and which could help immigrants move to higher paying jobs that allow them to secure or pay for employer-based or other private health insurance.<sup>111</sup> Bills that provide a pathway to lawful immigration status, by requiring legalizing immigrants to pay fees and fines, may themselves generate income that can be used to support state and local governments.<sup>112</sup>

Punitive federal policies, by contrast, thwart state and local efforts to protect health and safety. The U.S. Department of Homeland Security's recent campaign of raids and immigration sweeps, which has aroused fear in neighborhoods across the country, has undermined the sense of security residents need in order to participate fully in their local communities. Some of the sweeps were conducted in cooperation with state or local agencies, while may-

ors of some cities denounced the raids for separating children from their parents.<sup>113</sup> The Major Cities Chiefs Association, comprised of 57 major law enforcement organizations in the U.S. and Canada, recognized that this approach is a poor strategy for promoting the trust and cooperation with law enforcement on which public safety depends; it has favored policies that promote community policing.<sup>114</sup> In February 2007, the county of Miami-Dade, Florida, passed a resolution calling for a moratorium on detentions and deportations of non-criminal immigrants and prospective beneficiaries of comprehensive immigration reform legislation pending in Congress. The mayor and city council of Chicago passed a similar resolution in March 2007.

As the debate on federal immigration reform has shifted into high gear, legislatures in literally every state are considering over a thousand immigrant-related bills. The proposed bills would affect not only undocumented immigrants; they also would impose hardships on low-income citizens and lawfully present immigrants. Some of the bills mirror the costly

<sup>110</sup> See, e.g., the Legal Immigrant Children's Health Improvement Act of 2007 (ICHIA) (HR 1308;S.764) (granting states the option to provide federal Medicaid and State Children's Health Insurance Program coverage to lawfully residing children and pregnant women); the SSI Extension for Elderly and Disabled Refugees Act (S 821) (extending SSI to refugees and other "humanitarian" immigrant seniors and persons with disabilities who face termination of subsistence income due to a time limit on assistance).

<sup>111</sup> See, e.g., "Why Immigrants Lack Adequate Access to Health Care and Health Insurance," *supra* note 34.

<sup>112</sup> See Shawn Fremstad, "The Economic and Fiscal Effects of the Senate's Comprehensive Immigration Reform Act of 2006," IMMIGRANTS' RIGHTS UPDATE, Sept. 29, 2006, [www.nilc.org/immlawpolicy/CIR/cir019.htm](http://www.nilc.org/immlawpolicy/CIR/cir019.htm) (Senate immigration bill passed in 2006 would have boosted federal revenues by \$109 billion over ten years, producing a net fiscal benefit of \$60 billion). The Senate comprehensive immigration reform bill passed in 2006 included an impact assistance grant to help states meet the health and education needs of immigrant residents, and similar measures are under consideration as part of the 2007 immigration reform debate.

<sup>113</sup> Yvonne Abraham, "As Immigration Raids Rise, Human Toll Decried: Arrests Across U.S. Break Up Families," BOSTON GLOBE, Mar. 20, 2007 (mayor of Santa Fe, NM, declared his outrage that "families are being torn apart, literally"); Alexandra Marks and Cristian Lupsa, "After New Bedford Immigration Raid, Voices Call for Mercy and Justice," CHRISTIAN SCIENCE MONITOR, Mar. 16, 2007; Tyche Hendricks, "Immigration Raids Anger Advocate," SAN FRANCISCO CHRONICLE, Mar. 21, 2007 (In a letter to California's U.S. senators calling for immigration reform, the mayor of San Rafael declared, "It is not the role of any government to instill fear in the hearts and minds of children, yet we have children who are fearful of leaving their parents; children that sleep with their backpacks so they have their belongings in one place in case their parents get arrested.").

<sup>114</sup> See e.g., M.C.C. IMMIGRATION COMMITTEE RECOMMENDATIONS FOR ENFORCEMENT OF IMMIGRATION LAWS BY LOCAL POLICE AGENCIES (Major Cities Chiefs Association, June 2006), [www.houstontx.gov/police/pdfs/mcc\\_position.pdf](http://www.houstontx.gov/police/pdfs/mcc_position.pdf).

provisions passed in Colorado or Georgia, while others are largely symbolic or empty measures.<sup>115</sup>

The laws limiting access to services have been revealed not only as ineffective in addressing federal immigration policy, but as legally questionable. Instead of using immigrants and their children as tools in larger political battles, state and local governments should advocate for federal policies that provide the resources needed to integrate immigrants effectively into communities and to take positive advantage of their unique skills and contributions. Since immigrants are inextricably linked to the nation's history and its economic, social and family structures, punitive policies are not only harmful but are impossible to implement without harming U.S. citizens. Regardless of the outcome of the federal debate, state and local governments will need to make sure that their policies support rather than isolate immigrant families. As the demographics of U.S. communities transform, the investment will bring dividends that will secure the nation's future.<sup>116</sup>

---

<sup>115</sup> South Carolina, for example, proposed to bar undocumented adults from receiving food stamps, which never have been available to undocumented immigrants.

<sup>116</sup> Jeffrey L. Rabin, "Immigrant Workers Could be Crucial to Ensuring the Security of Aging Baby Boomers," *LOS ANGELES TIMES*, Feb. 27, 2007 (quoting Dowel Myers, professor of urban planning and demography at the University of Southern California and author of *IMMIGRANTS AND BOOMERS: FORGING A NEW SOCIAL CONTRACT FOR THE FUTURE OF AMERICA* (Russell Sage Foundation, 2007): "Here's the story about the immigrant future, and here's the story about the baby boomers. . . . Their fates are interconnected.").