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**CLINIC's State and Local Immigration Project:
2021 State Immigration Legislation in Review**

By Viviana Westbrook, State and Local Advocacy Attorney

** Referencing state immigration legislation CLINIC tracked from January through August.*

Introduction

Lawmakers in all 50 states and the District of Columbia convened for legislative session 2021. After the U.S. presidential election in November 2020, CLINIC's State and Local Immigration Project predicted a backlash in conservative states and localities, retaliating for potential pro-immigrant rights policies forthcoming at the federal level.

Generally speaking, we saw a wave of conservative and anti-rights state legislation in 2021. These included proposals to limit the right to vote, proposals targeting transgender youth from competing in school sports, retaliatory measures for Black Lives Matter demonstrators, and eight states passed legislation banning education on critical race theory, including any classrooms discussions about conscious and unconscious bias, privilege, discrimination and oppression.

The general anti-rights trend certainly carried through to legislation proposed on immigration this year. Many states proposed legislation that would force collaboration with Immigration and Customs Enforcement, or ICE, and Customs and Border Protection, or CBP, on immigration detainer requests, bolster funding for border security, increase surveillance of immigrants, adopt E-verify laws and more. Fortunately, most of these laws did not make it through their respective legislative sessions before adjourning. That being said, it will be important to keep an eye on the ones that did not pass as they are likely to make an appearance in 2022. On the flip side, we did see some breakthrough wins, with various states successfully enacting pro-immigrant legislation on issues, such as creating immigrant affairs offices, U visa certification, COVID-19 and benefits, to name a few.

CLINIC tracked 417 pieces of legislation from January through August 2021 in all states and the District of Columbia. It is important to note that this is not an exhaustive list of immigrant-related bills proposed during the 2021 legislative session, and this analysis references legislation from January through August. Of the ones tracked, close to 65 bills and resolutions affecting immigrants have been adopted or signed by the governors. A total of 40 proposed bills had died by July 30, while over 170 bills continue through the legislative process. Currently, 13 states and the District of Columbia are still in session.

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Border Patrol

Why it matters: When a state dedicates funds to enforcing federal immigration law, it detracts from funding available to serve residents of the state, including education, transportation, infrastructure, social services, and more. It also destroys trust between immigrants and their communities, especially when statements are issued through resolutions that show the anti-immigrant values of each locality.

Legislative drafting notes: States should pass resolutions that show their support and gratitude towards their immigrant communities. Many states have taken to acknowledging important dates specific to the immigrants living in their areas. Money spent on federal immigration laws should be limited.

Session highlights:

Arizona passed [HCR 2029](#) to commend the work of Border Patrol and ICE. “The work of ICE is critical to enforcing immigration law against people who present a threat to national security, are a danger to public safety or undermine the integrity of the immigration system.”

Through Arizona [SB 1823](#), the state appropriated \$28,541,500 to the Gang and Immigration Intelligence Team Enforcement Mission, or GIITEM, to be used for “immigration enforcement and border security.” Part of this entails “responding to or assisting any county sheriff or attorney in investigating complaints of employment of illegal aliens” and enforcing federal laws relating to “illegal aliens and arresting illegal aliens.” Some of the money will also go to Arizona’s border strike task force.

Arizona also had a bill ([HB 2379](#)), which would use \$1.1 million from the state general fund to distribute to four different county sheriffs to procure cameras and related equipment, software and services for southern Arizona border region enforcement. This bill passed the Arizona House and made it through the second reading in the Senate before the legislative session was adjourned in June.

COVID-19 and Benefits

Why it matters: Immigrants are often excluded from the safety net provided by public benefits, such as unemployment, healthcare and financial assistance (including COVID-19 federal stimulus checks). As a result, people are made vulnerable and left without basic needs and life-saving care.

Legislative drafting notes: When providing assistance, make sure that it is inclusive and that all immigrants whether they are undocumented or not, will receive help.

Session highlights:

California

California became the first state of its kind when it expanded ([AB 133](#)) Medi-Cal to low-income adults 50 years of age or older, regardless of immigration status. Two years ago, California expanded Medi-Cal coverage to all eligible undocumented young adults up to the age of 26. This expansion makes California have the [most inclusive](#) health coverage for the low-income population in the country.

California is currently considering [SB 464](#) the Food for All or “Comida Para Todos” Act, which would expand food assistance program California Food Assistance Program (CFAP). The bill passed the Senate and was referred to the Assembly back in June. Currently, immigrants who qualify for CalFresh includes citizens, lawful permanent residents, refugees, asylees, those who have applied for a U or T visa or have been granted such, an applicant for VAWA, and a Cuban or Haitian entrant. It does not include those on a student, work, or tourist visa, DACA or TPS recipients, and those who are undocumented. Prior to COVID, it was estimated that 1 in 10 Californians experienced food insecurity, and that 2 million undocumented immigrants were not eligible for most [food assistance programs](#). This bill, if passed, would remedy these issues.

California also passed [SB 393](#) to amend its existing law on its Migrant Childcare Alternative Payment program, which is a service program that assists low-income agricultural migrant workers in choosing and paying for a care provider. The changes align the program with funding available to other parental choice voucher-based childcare programs. Agricultural workers will receive additional, ongoing childcare slots for them to use — something that is particularly important during the pandemic.

Illinois

The Illinois Governor approved [HB 709](#) on Aug. 19, which requires the Illinois Department of Human Services to conduct a public information campaign to educate immigrants, refugees, asylum seekers and other noncitizens residing in Illinois of their rights under the U.S. Constitution and Illinois laws that apply regardless of immigration status.

In addition to this, Illinois also passed HB 121 which aims to prevent discrimination based on the specific status or term of status that accompanies a legal work authorization.

New Mexico

New Mexico passed a bill ([HB 112](#)) that expands a state or local health benefit to be provided to all non-citizens (who meet other qualifying criteria) regardless of immigration status.

Maryland

Through [SB 218](#), Maryland became one of the few states to extend stimulus benefits to people without Social Security numbers. For the next three years (2020, 2021, 2022), all taxpaying residents (regardless of their immigration status) will receive earned income tax credit.

Washington

Washington state, under [HB 1368](#), continued its relief to immigrants through the \$65 million fund authorized to provide assistance to someone living in Washington, who has been significantly affected by the pandemic, is not eligible to receive federal economic stimulus payments or unemployment insurance benefits due to their immigration status, and qualifies under the other areas.

For more information and resources related to immigration and COVID-19, please visit: cliniclegal.org/covid-19.

Detention

Why it matters: Private detention in states has come under close scrutiny since the start of the pandemic. DHS detention centers have shown [gross mismanagement](#) of their facilities leading to unsafe conditions, the spread of COVID among detainees, immigrants dying in their care. There was even the [whistleblower report](#) around hysterectomies, which occurred without the full knowledge and consent of immigrants. Such conditions are unacceptable, and states no longer wish to be complicit in these human rights violations and so are ending private detention.

Legislative drafting notes: If trying to end detention in the state, it is important to have a clause that prohibits entering into new contracts, as well as one that terminates existing contracts by a certain date. It is also important to have advocacy around what happens to immigrants once the detention center is shut down. The concern being that ICE may send immigrants to other jurisdictions without the same availability of legal services, and immigrants may end up far away from their loved ones. Advocacy around ICE releasing those who are detained would alleviate these concerns. If the political will is not in your state, then consider laws that allow states to regularly inspect the conditions within these private detention centers.

Session highlights:

Though it did not pass this session, Georgia proposed a bill ([HB 190](#)) that would not permit any private entity to operate a detention facility in the state.

As previously mentioned, on Aug. 2, Governor Pritzker signed SB 667 — the [Illinois Way Forward Act](#), which increases transparency and accountability in regards to local law enforcement

collaboration with immigration. In addition to the steps it takes with limiting certain anti-immigrant practices, and requiring a presumption of helpfulness on U visa certification, the law also prohibits state and local governments from signing contracts with the federal government to detain immigrants.

Governor Hogan from Maryland [vetoed](#) various immigration bills including the Dignity Not Detention Act ([SB 478](#)) which would require detention contracts to be terminated by Oct. 1, 2022. At the start of the 2022 legislation, Maryland legislators will be voting to override this veto.

New Jersey also passed [AB 520Z](#), which prohibits state and local entities and private detention facilities from entering into agreements to detain noncitizens.

Washington State passed [HB 1090](#), which would ban for-profit detention centers. This means that it would affect the Northwest Detention Center in Tacoma with 1,575 beds.

Driver's Licenses

Why it matters: Being able to drive without fear of reprisal is incredibly important to upholding the dignity of immigrants and ensuring people can meet their basic needs. No person should have to be afraid to drive to work, the grocery store, the hospital, etc. It contributes to public safety by ensuring that immigrants are taking exams for their driver's licenses and are obtaining insurance for their vehicles. Finally, there is a financial argument to be made for driver's licenses for all immigrants, as they then pay increased revenue from taxes, registration fees, license fees, vehicle-related purchases. It also decreases immigrant fear to go out and drive, which allows them safer and easier access to jobs and shopping.

Legislative drafting notes: It is essential that there always be a section included which limits the release of records to other agencies for civil immigration enforcement. Even if there are laws that permit immigrants to obtain licenses, if they know that the department of motor vehicles is sharing their information with ICE or CBP, there will be reluctance to take advantage of obtaining a license.

Session highlights:

North Carolina Delegate Ricky Hurtado along with 16 other co-sponsors, introduced [HB 311](#) that would allow applicants with limited legal status or who are not lawfully present in the United States to obtain a restricted driver's license as long as they provide a valid ITIN, a current passport, a valid, unexpired consular identification document, or a community identification card issues by FaithAction International House. The Senate also had its version of the bill ([SB 180](#)). Because of the number of co-sponsors on both sides, we can hope that in the next couple of sessions we will see this bill gain traction.

New York has a bill ([AB 1542](#)) that would amend a vehicle and traffic law. One of the sentences it adds is: “Eligibility for a driver’s license shall not be conditioned on a particular immigration status.” It is currently in the Transportation Committee in the Assembly.

Pennsylvania proposed a bill ([HB 279](#)) to enable undocumented immigrants to receive a learner’s permit or a driver’s license by using just their taxpayer identification number and additional documents. There has been no movement on this bill since January – when it was referred to the House Transportation Committee.

Both the Virginia ([HB 2163](#)) and Maryland ([SB 234](#)) legislatures passed bills that limit the release of the Department of Motor Vehicles privileged information to government entities and law-enforcement agencies for the purpose of civil immigration enforcement. Such laws are incredibly important as they eliminate some of the concerns around the shrinking of privacy as immigration enforcement [keeps pushing](#) its use of technology to identify and arrest immigrants.

Education

Why it matters: Immigrants should be able to reach their full potential and continue their education. Oftentimes, they are stopped because they will not qualify for federal loans and have to enroll in community college – taking one course at a time to be able to afford higher education. This can be a timely endeavor and makes them less competitive in the workplace. Supporting all children in their educational pursuits is beneficial for all of society.

Having a curriculum that is diverse and inclusive allows everyone to feel seen and accepted. It is important in order to lessen achievement gaps and create equitable participation in schools.

Legislative drafting notes: Include tuition equity for immigrants that is as inclusive as possible. Have education include areas that have been omitted from curriculum but are central to U.S. history.

Session highlights:

This year, CLINIC tracked 5 states that put forth legislation that addressed tuition equity for immigrants: Arkansas ([SB 287](#)), Missouri ([HB 219](#)), North Carolina ([HB 753](#)), Virginia ([SB 1387](#)) and Indiana ([HB 1086](#)). The Arkansas bill passed and amended it to include people who hold an employment authorization document, and their children to be eligible for the Arkansas Governor’s Scholars Program as well as the Arkansas High Technology Scholarship Program.

Missouri’s bill failed as the legislative session was adjourned but would have prohibited higher education institutions receiving state funds from denying admittance to an individual based solely on their immigration status. It also asks that an individual who is not a citizen or permanent resident provide an affidavit stating, “that the individual will file an application to become a permanent

resident of the United States at the earliest opportunity the individual is eligible to do so.” Similarly, North Carolina’s bill failed due to adjournment. It allows certain immigrant youth to receive in-state tuition at the University of North Carolina and community colleges in the state. Indiana’s bill would have added a chapter that gives resident tuition for certain eligible individuals — which does not include a “nonimmigrant alien,” but would permit someone who has filed an application to legalize the individual’s immigration status or will file one as soon as the individual is eligible.

Virginia’s bill was an excellent, continuing step forward in the pro-immigration legislation that the state has been passing. The bill was approved and will be effective on Aug. 1, 2022. It allows for in-state tuition to all students regardless of their citizenship or immigration status, and it affords the same educational benefits, including financial assistance programs administered by the State Council of Higher Education for Virginia, the State Board for Community Colleges, or a public institution of higher education.

Minnesota proposed [House Bill 1081](#), which includes a section for improving instruction including access to an ethnic studies curriculum using culturally responsive methodologies for all learners. Reading strategies include that teacher candidates need to be instructed in using students’ native languages as a resource for developing literacy skills. It has not made it out of the House, having been referred to three different committees.

E-Verify

Why it matters: E-Verify is subject to [many errors](#) that incorrectly identify U.S. citizens and immigrants as someone whose eligible status for work has not been confirmed (which can occur for a number of reasons). Having to follow up on these is costly and time consuming for both employers and employees. E-Verify can also share information with ICE and other groups which can lead to immigration raids.

Legislative drafting notes: Provide legislators information on the harm done by these laws both to immigrants as well as the individual states. Discourage bill language trying to take the additional measure of reporting undocumented immigrants to ICE. Such action could dissuade immigrants — even those with a lawful employment authorization — from applying to jobs in these locations, thus depriving employers of needed workers.

Session highlights:

Iowa adjourned for the year before the bill ([SB 339](#)) could do more than move into the Senate Judiciary Committee. This bill requires employers to use the federal E-verify program to certify that all employees are authorized to work. It also bans employers from knowingly employing “unauthorized aliens”.

West Virginia's bill ([SB 48](#)) would prohibit an employer from knowingly employing an "unauthorized employee." It would also provide that an employer needs to verify employment eligibility through E-Verify. The Attorney General must investigate a complaint that is submitted on a complaint form but can investigate those that are anonymous and not submitted on a form. If the immigrant is deemed to be an "unauthorized employee," then the Attorney General must notify ICE. Luckily, we did not see movement on this bill, and it failed since its legislative session adjourned.

Firearm Laws

Why it matters: Firearm laws can have a discriminatory effect when they create certain hurdles that some — specifically immigrants — have to overcome in order to possess a gun (if they are allowed to possess one at all). These can be conducive to racial profiling as a person of color with an accent may garner more scrutiny on their application than a white native English speaker.

While it makes sense to have limitations and more scrutiny on individuals in general who have committed a crime of violence, immigrants do not pose a generalized threat to the general public (unlike many [heterosexual white men](#) with racial hatred and/or misogyny — and yet we do nothing to regulate them). Immigrants try to fly under the radar and commit less crime overall than the average U.S. citizen.

Firearm laws can also lead to increased violence against communities of color as we have seen in shootings over the last few years. Making it easier for others to target immigrants for hate crimes while simultaneously having laws that make it harder, if not impossible, for immigrants to defend themselves is reprehensible.

Current case law provides for such restrictions saying that the 2nd amendment does not apply to noncitizens, despite the wording being about "people" and not "citizens" — a wording that has allowed protections to be extended to noncitizens in other parts of the U.S. Constitution. Why this cherry picking occurs is a mystery. The U.S. Constitution was meant to be an evolving document that could take into consideration the changes within a society. To keep perpetuating a narrative based on fear and hate instead of understanding and compassion should go against our values.

Legislative drafting notes: If there is increased scrutiny required to obtain a firearm, it should not be tied to someone's immigration status but rather the public safety risk they pose — citizen or non. A person's citizenship or immigration status does not determine their public safety risk, and there are millions of people living in the United States and working with authorization. They have contributed to society for decades and some may even become U.S. citizens.

If a firearm law is proposed that exposes immigrants to more violence, it is important to remind legislators of past violence perpetuated against this community.

Session highlights:

Texas

The first week in August marked the second-year anniversary of the Walmart shooting in El Paso, Texas. It is important to note the various ways in which Gov. Greg Abbott has both contributed to violence against people of color as well as failed to show leadership on healing the community. [House Bill 1927](#) was signed into law which allows Texans over the age of 21 to carry a firearm without any license or training. Governor Abbott also announced in June details to [build a border wall](#) in Texas — providing \$250 million in state funds as a “down payment.”

Alabama

In April, Alabama bill [SB 308](#) was passed in regards to concealed carry permits. It will establish a state firearms prohibited person database. It also allows an Alabama resident to apply for such a permit. Unfortunately, Section 13A-11-75 says, “Upon application by an individual who is not a United States Citizen, the sheriff shall conduct an Immigration Alien Query through U.S. Immigration and Customs Enforcement, or any successor agency, and the application form shall require information relating to the applicant’s country of citizenship, place of birth, and any alien or admission number issued by U.S. Immigration and Customs Enforcement, or any successor agency. The sheriff shall review the results of these inquiries before making a determination of whether to issue a permit or renew a permit. An individual who is unlawfully present may not be issued a permit under this section.”

It is also disturbing that Alabama would require such an invasion of privacy into a person’s immigration status.

Under current [Alabama law](#), certain individuals cannot possess a pistol including those convicted of a crime of violence, and those who are drug addicts or habitual drunkards. When giving a permit for a concealed weapon, the sheriff must take into account “justifiable concern for public safety.”

Hate Crimes

Why it matters: It is important to have laws that add additional punishment for those who are acting out of fear and hate and targeting certain groups that should be protected such as those with a disability or a certain gender, nationality, race, ethnicity, religion, sexual orientation or other such characteristics. There is already an [underreporting](#) of anti-immigrant hate crimes. These laws are fundamental in the identification of such crimes and ensuring that the perpetrators are properly punished and deterred from further insidious actions. On Aug. 30, the FBI released its [2020 hate](#)

[crime statistics](#). Data was received from over 15,000 law enforcement agencies. More than 60 percent of the crimes targeted the individual because of race/ethnicity/national origin.

Legislative drafting notes: It is important to make it clear in legislative drafting that for the purposes of hate crimes, nationality specifically includes someone's immigration status.

Session highlights:

California [AB 600](#) was signed into law by the Governor on Sept. 24, 2021. It expands existing law that requires an enhanced sentence for any criminal act that happens (in whole or in part) because of an actual or perceived characteristic. One of those characteristics is nationality which includes citizenship, country of origin, and national origin. This bill also expands the definition to include immigration status.

Illinois passed a law ([SB 1596](#)) in August that amends the Illinois Criminal Code to include criminal acts against a person because of actual or perceived citizenship or immigration status as a hate crime.

Immigration Legal Defense Funds

Why it matters: The stakes in immigration cases may be life or death, yet access to legal counsel is not guaranteed. Access to legal representation is paramount in protecting vulnerable populations and ensuring more fair and efficient courts and processes. The Colorado bill highlighted below includes key statistics on why immigration legal defense funds are good policy.

Legislative drafting notes: If this is the initial request, it is important to ask for an amount that mirrors programs previously implemented and that take into consideration current financial concerns. Asking for too much may lead to not getting these bills passed. If the program is successful, one can always try and get more funding later on. Most of these laws prioritize immigrants in detention and/or removal proceedings as they are the most vulnerable.

Session highlights:

This year, Colorado passed [HB 1194](#), which establishes a defense fund for legal defense of immigrants. 70 percent of the money will be allocated to organizations to serve detained immigrants while 30 percent will go to serving non-detained clients.

The first section of the new law shows the importance and necessity of such a law because "Only five percent of immigration cases were won between 2007 and 2012 without an attorney, while ninety-five percent of successful cases involved persons who were represented by an attorney." Also, the bill makes a good point about money that is saved with these types of laws. "A recent report from the Colorado Fiscal Institute shows Coloradans could save nearly \$18.6 million by providing universal

representation for Coloradans in immigration court, thereby supporting families with legal fees, saving employers' turnover costs, and allowing individuals to work with their families as they fight their immigration cases."

Maryland proposed [HB 750](#) but it did not advance, despite very compelling testimony from not only various directly impacted community members, attorneys, other advocates, but retired United States Immigration Judge Lisa Dornell who served as such for 24 years. As she eloquently [stated](#), "As an immigration judge, I was acutely aware of the imbalance in the court proceedings where non-citizens were unrepresented and had to face as an opponent the trained and skilled lawyers from the Department of Homeland Security. It was a situation that felt as jarring as it did unfair." Unfortunately, these kinds of bills can be challenging to pass as they require spending.

Oregon's session adjourned on June 26, with [SB 389](#) in committee which was troubling as existing funding for immigration-related services ended on June 30.

Language

Why it matters: "Alien" is an archaic and dehumanizing term that should no longer have a place in today's society. Troy Miller, Custom and Border Protection's top official [said](#) in a memo, "As the nation's premier law enforcement agency, we set a tone and example for our country and partners across the world...The words we use matter and will serve to further confer that dignity to those in our custody."

Legislative drafting notes: In order to avoid any miscommunications or challenges in obtaining funding (if certain grants are tied to serving a specific population), states should try to follow the examples of other states that have already passed legislation on this. The more variations on the term, the more confusing it can be when a state awards certain benefits to "x" population. If all states are using different terminology, there can be some points of confusion as to whether they can apply for/retain certain funding. Something else that can help with this is having wording that discusses the intent of the legislation — which is to remove dehumanizing terms in the code, but not to make substantive changes to the law. California's proposed legislation has such a provision, which states, "Nothing in this measure shall be interpreted to make any substantive change to existing law, including, but not limited to, eligibility for federal programs or benefits that are available to a person who meets the definition of 'alien' under state or federal law."

Session highlights:

Legislators in 4 states proposed bills to replace terms containing "alien" with other language.

California adopted a resolution ([SJR 2](#)), which includes language supporting President Biden's [executive orders](#) and other pushes to replace the term "alien" with "noncitizen." California's

resolution states that this change models “empathy in their actions and dignity in their language.” California also signed [AB 1096 into law on Sept. 24, 2021](#). This new law revises all state laws and replaces the word “alien” with “immigrant” and other terms.

Before its legislative session ended, Georgia proposed a resolution ([HR 76](#)) encouraging replacement of “illegal alien” with “undocumented person” in the Official Code of Georgia. The resolution states that referring to undocumented immigrants as “illegal” is “increasingly viewed as dehumanizing, offensive, inflammatory, and even a racial slur.” It highlights that “illegal alien” should “reflect this state’s commitment to respecting all persons and recognizing the humanity in all human beings.” The resolution did not have the opportunity to make it out of the House.

Colorado passed a law ([HB 1075](#)), which replaces the term “illegal alien” with “worker without authorization” as it relates to public contracts for services.

Minnesota was considering a bill ([SB 812](#)), which would replace “nonresident alien” and “alien” to “undocumented immigrant” when referencing an immigrant. The bill only made it passed the first reading and being referred to the Committee on State Government Finance and Policy and Elections before the legislative session adjourned.

Offices of Immigrant Affairs

Why it matters: Offices of Immigrant Affairs (or other names) are central to immigrant integration efforts. They provide a centralized location that is tied to other offices or even are directly under the offices of the Mayor or Governor providing much needed legitimacy and funding to integration work. Read more about why integration matters in this [policy paper](#) by CLINIC experts, delivered to the Biden administration transition team at the beginning of 2021.

Legislative drafting notes: There should always be a funding source for the office. The office should have a name that is inclusive of the communities in one’s area. There should be outreach to local community-based organizations and a full understanding of the diversity of one’s specific immigration.

Session highlights:

Three states established new office for immigrant affairs through the legislative process, including Colorado’s Office of New Americans ([HB 21-1150](#)), Maryland’s Governor’s Office of Immigrant Affairs ([HB 15](#)), and Oregon’s Office of Immigrant and Refugee Advancement ([SB 778](#)). The Illinois Governor established an office through an executive order.

Hawaii passed resolution [HCR 169](#) that requests that the Department of Labor and Industrial Relations to convene a working group to improve access to government services for immigrants and increase immigrant opportunities for civic engagement.

Arizona's bill ([SB 1711](#)) to establish an Office of New Americans died in committee.

Pennsylvania also proposed a bill ([SB 101](#)) to establish an Office of New Americans within the Department of Community and Economic Development of the Commonwealth. Pennsylvania is still in session but there has been no movement on the bill since January 2021.

Illinois Governor JB Pritzker signed Executive Order 17 to create the Welcoming Illinois Office, to report to the Office of the Governor and the Secretary of the Department of Human Services. The Office will be working on policies and practices that make Illinois "a more welcoming and equitable state for immigrants and refugees." In addition to this, Illinois passed a law ([SB 2665](#)) to establish an Immigrant Impact Task Force responsible for examining what Illinois is doing proactively to help immigrant communities, what it can do to improve relations between the State and immigrant communities, whether the laws intended to benefit immigrant populations are actually having that effect, what are the current practices and procedures of ICE within Illinois, etc. There will be 27 members of the Task Force and with the Governor's Office, minority and majority leaders of the House and the Senate will each get to appoint one of these members. The same applies to the various offices of areas such as housing, human services, public health, etc.

Professional Licenses

Why it matters: These professional licensing laws help make states more economically competitive as they make use of the talent and education of their residents.

Legislative drafting notes: The best model for these laws is linking professional licensing to employment authorization, not specific immigration statuses. The broader the law, the larger the pool of people who can work in these specialized fields, providing enormous benefits to states.

Session highlights:

This year, Colorado enacted a law ([SB 77](#)) which removed the verification of an individual's lawful presence in the U.S. as a requirement for credentialing issued by the Colorado Department of Education. It adds that: "If the applicant does not have a Social Security Number, the division, board, or agency shall require the applicant's individual taxpayer identification number, or another document verifying the applicant's identity, as determined by such division, board, or agency." In addition, [Senate Bill 199](#) was also passed to remove barriers to public benefits and professional licenses. Colorado expressed its appreciation for immigrants who are "essential members of our communities." The law goes on to say, "Immigrants hold jobs that are critical to our economy and

communities, and in some industries comprise more than one-third of the workforce. Immigrants make our tourism industry run; build our buildings; lay our roads; provide in-home care to our seniors, children, and people with disabilities; bring food to our tables; and bring food to our doorsteps.” The law includes various amendments to different Colorado statutes to ensure that state-funded programs are not denied to people based on their immigration status. A section was added to stress that lawful presence is not a requirement of eligibility for state or local public benefits.

Arkansas passed a law ([HB 1735](#)) that allows an occupational or professional license to be granted to an individual who has an employment authorization document, and who fulfills the requirements to practice that occupation or profession in Arkansas. Notably, this law is effective as it does not limit opportunities to only a subcategory of immigrants such as only lawful permanent residents or only DACA recipients, like some other states do. There are many other groups of immigrants who have employment authorization, and this gives Arkansas the opportunity to benefit from the talent and contributions of all its residents. Arkansas also passed [HB 1594](#) which permits DACA recipients to be granted a teaching license by the Division of Elementary and Secondary Education.

New York’s [AB 1952](#), sponsored by Delegate Catalina Cruz, would provide all New Yorkers access to professional, occupational, commercial and/or business licenses regardless of the applicant’s immigration status. It was introduced in January but has not had any movement. It provides that similar work experience obtained outside the United States needed for a license in New York can be counted. If English-language proficiency is not a requirement for the license, then the application, including the exam, will be accessible in the applicant’s primary language. An ITIN can be used in lieu of a SSN, and no one can inquire about why a SSN was not provided.

Before its legislature adjourned, South Carolina had a slow-moving bill ([HB 3243](#)) that was pre-filed back in December and passed the House and moved to the Senate in April. It would amend the code of laws of South Carolina to add a section to provide that people who have current and valid employment authorization to be eligible for occupational and professional licensure provided that all other applicable requirements are met. The bill was truly bipartisan with Republican delegate Neal Collins being joined by two of his fellow Republicans, along with four Democratic delegates. We hope to see a professional licensing bill again in 2022.

Arkansas also has its own bill ([HB 1333](#)) that would allow not only U.S. citizens, but also nonimmigrants legally admitted to the United States under a compact of free association to become a certified law enforcement officer.

Protecting Immigrants from Extortion

Why it matters: Immigrants, and particularly undocumented immigrants, are a very vulnerable group as many do not possess knowledge of U.S. laws and systems, are not native English speakers, are not eligible for many public benefits, and may not have the same support system as those born in this

country. Because of this, often people will take advantage of all of these things and threaten to report immigrants if they do not give them money, goods, or commit a specified act. It is therefore important to ensure that this type of extortion is criminalized.

Legislative drafting notes: Be sure to include ways extortion occurs. It should never be limited to giving money but should also include giving other goods, services, refrain from committing an act, etc.

Session highlights:

In order to protect immigrants from criminal extortion, Colorado passed a bill ([HB 1057](#)) which makes it a crime to force someone to give them money or an item of value, or commit an act by threatening to report them or someone else to law enforcement officials because of their immigration status.

Refugee Assistance

Why it matters: Thousands of refugees enter the United States every year. They are settled in various states where resettlement agencies assist them in obtaining housing, a Social Security card, registering children in school, etc. Refugees need assistance as they integrate into their new homes. The integration of immigrants into their receiving communities directly affects the overall well-being of families for generations. Communities and the United States as a whole benefit from engaging in this crucial work.

As of the date of this report, refugee resettlement agencies in the United States have been told to expect at least [50,000 Afghan refugees](#). Unfortunately, many are not coming through the formal refugee admissions program and are rather being paroled in given the urgent circumstances. This means that the Afghans are not eligible for resettlement assistance. Because of this, states are looking for ways to help these refugees.

Legislative drafting notes: It is important that individual states provide funding for Afghan arrivals to ensure that they are properly supported. Many states are still in their legislative session and can create laws to not only give the arrivals monetary support but also access to health care, public benefits and additional resources. States can also pass welcoming resolutions to recognize the importance of immigrant communities and building a stronger, more unified America based on an equal partnership between newcomers and the receiving community

Session highlights:

Various governors have [offered their support](#) for the Afghan refugees — welcoming them into their states.

Governor Newsom along with legislative leaders is requesting [\\$16.7 million](#) in general funds to provide cash assistance and other services for newly arriving Afghans in the state.

New York has proposed amending the budget ([SB 7345](#)) to provide \$76 million for assistance to Afghan allies.

Sanctuary City Policies/Laws Regarding Local Law Enforcement

Why it matters: Sanctuary city policies normally prohibit local law enforcement from collaborating with ICE or CBP without a properly signed judicial warrant. They can also include provisions that limit when law enforcement ask questions around an individual's nationality. These laws engender trust between local law enforcement and the immigrant community. Without these, immigrants are loathe to come forward and report crime — something that makes everyone in their communities less safe. Rather than criminalize immigrants, we should come together and create laws that keep local law enforcement focused on what should be their top priority: their community. ICE and CBP should be responsible for obtaining warrants signed by a judicial authority after establishing sufficient cause.

There are also policies that limit enforcement in areas that should be protected, such as hospitals, courts, churches, etc.

Confidentiality provisions also protect immigrant status information from being shared with federal immigration authorities unless required to do so by law.

Legislative drafting notes: Existing 287(g) agreements should be abolished as well as any collaboration that entails local law enforcement from adhering to detainer requests, sharing information with ICE and CBP — absent a judicial warrant. A person's immigration status should not be requested unless it is instrumental to the investigation. In jurisdictions without these agreements, legislation should be drafted to affirmatively prevent them from being put in place statewide.

Session highlights:

Various states considered legislation that addressed the ability of localities to adopt policies to limit local officials' participation in federal immigration enforcement. Many of the pieces of legislation were anti-immigrant.

Connecticut

Connecticut proposed a bill ([HB 5919](#)) that would have amended the Trust Act – repealing parts of the statute that protect individuals from being detained by an immigration detainer. The bill would have allowed detainers for individuals who either have pending criminal charges, have an

outstanding arrest warrant, are identified as a known gang member, are subject to a final order of deportation, or present an unacceptable risk to public safety. Luckily, the bill failed.

Illinois

Illinois amended their Trust Act through [Senate Bill 667](#), to include that a law enforcement official may not inquire about or investigate the citizenship or immigration status or place of birth of any individual in the agency or official's custody or who has otherwise been stopped or detained by the agency or official. Unless otherwise limited by federal law, a law enforcement agency or law enforcement official may not deny services, benefits, privileges, or opportunities to an individual in custody or under probation status, including, but not limited to, eligibility or placement in a lower custody classification, educational, rehabilitative, or diversionary programs, on the basis of the individual's citizenship or immigration status, the issuance of an immigration detainer or civil immigration warrant against the individual, or the individual being in immigration removal proceedings.

Under the law, no law enforcement agency, law enforcement official, or any unit of state or local government may enter into or renew any contract, intergovernmental service agreement, or any other agreement to house or detain individuals for federal civil immigration violations.

There is also an enforcement provision that gives the attorney general the authority to conduct investigations into any violations of the act.

Illinois introduced a bill ([SB 1986](#)), which allows rules to be proposed to ensure public schools, state-funded medical treatment and health care facilities, public libraries, facilities operated by the Office of the Secretary of State and courthouses remain safe and accessible to all Illinois residents, regardless of immigration status, echoing federal Sensitive Locations policy principles. The bill is currently in the Senate Assignments Committee.

Maryland

Although a small portion of the [Maryland Trust Act](#) made it into the Dignity Not Detention Bill, the bulk of the Trust Act was not passed. This would be a very crucial law to protect immigrants from being racially profiled and targeted, and it would help restore community trust in our law enforcement officials. This bill has been proposed for several years now.

Massachusetts

In March, Massachusetts introduced a bill ([SB 1573](#)) that would prohibit the use of funds for police lockups, detention beds, and other resources for the sole purpose of immigration enforcement, unless the immigrant is being “booked on a Massachusetts statutory violation.” This seems overly broad —

particularly given that it only pertains to immigration enforcement. It also does not prohibit Inter-Governmental Service Agreements with the U.S. Department of Homeland Security which means Massachusetts' law enforcement can still get paid by ICE and CBP to house undocumented immigrants in the local jails. It is something that contributes to immigrant mistrust of local law enforcement.

There are provisions in the bill to protect information. These include one that prohibits law enforcement officers from inquiring about a person's immigration status unless it is required by law or is an element in the crime being investigated. The second is a prohibition on information sharing between a law enforcement agency or the department of motor vehicles to an entity for enforcement of any federal program.

Montana

Montana unfortunately passed two anti-immigrant bills in this area: [HB 200](#) and [HB 223](#). HB 200 prohibits sanctuary cities in Montana while HB 223 requires that a public safety officer in possession of an immigration detainer request issued by a federal immigration agency shall arrest a person who is already in custody. Officers need to comply with detainer requests except when there is "credible evidence" that the person is a citizen of the U.S. or that the individual has lawful immigration status.

In January, Rabbi Laurie Franklin and Reverend Jean Allen both [testified](#) against HB 200. Allen began to speak saying, "As a white woman...when I am pulled over, my greatest fear is that I will be ticketed. Not that I will be hurt or killed or deported. Most people of color in our country...." Allen was then interrupted by House Judiciary Chair Barry Usher who stated, "We're not going down the rabbit hole of racism, because there are immigrants from all over the world that are every color on earth, and we're not doing racism in this hearing." Rabbi Franklin was interrupted twice by another representative when she used the term "white supremacy." No one who spoke in favor of these bills was interrupted, including someone who talked about "cities burning this summer" at the fault of the Black Lives Matter movement.

North Carolina

North Carolina has been trying to pass a bill ([SB 101](#)) that would force law enforcement to check the immigration status of every person accused of felony drug or violent crimes, as well as honor ICE and CBP detainer requests. The bill has gotten through the Senate, the first reading in the House, and is now in the Committee on Rules, Calendar, and Operations of the House. Previously Governor Roy Cooper had [vetoed](#) HB 370 from two years ago, which is similar to this year's SB 101. Hopefully this is a good indicator that such a bill will not be signed into law in the next three legislative sessions. Currently, North Carolina does not have anywhere near the votes needed for an override.

This bill is clearly backlash to sheriffs like Garry McFadden from Mecklenburg County, [Gerald Baker](#) from Wake County, and Quentin Miller from Buncombe County who have been standing up for their

immigrant community members (and communities as a whole) by ending the 287(g) agreement in their respective counties and no longer honoring detainer requests in the absence of a signed judicial warrant.

Oklahoma

Like Montana, Oklahoma also approved anti-immigrant legislation ([HB 2774](#)) that forces law enforcement to comply with immigration detainer requests.

Rhode Island

Rhode Island introduced [SB 253](#) to the Senate to designate schools, places of worship and courts as sensitive locations. It would require a judicial warrant be obtained in order to grant federal immigration authorities access to these premises for immigration enforcement. The Senate Judiciary recommended the bill be held for further study.

SIJS Findings

Why it matters: Often, children make their way up to the United States when they are older. In many situations, they need assistance in order to enroll in school; need a place to live while they study; may be behind in studies both because they stopped attending school at an earlier age in their home country, and because they speak another language; may have physical and/or psychological trauma that needs to be addressed. Having a clear cutoff age of 18 in order for children to avail themselves of Special Immigrant Juvenile Status, or SIJS, in states excludes many who are in need of added protections for a few more years as they become acquainted with their new country.

Legislative drafting notes: More states should allow for custody/guardianship of children and SIJS findings for those up to 21 years of age.

Session highlights:

Illinois passed a law ([HB 369](#)) that details what findings a court should include when a minor is going to be applying for Special Immigrant Juvenile Status. Guardianship is allowed for minors who are 18 and older but under 21 years of age. Illinois joins California, Nevada, Washington, Colorado, Mississippi, Maryland, New Jersey, New York, Connecticut, Massachusetts and Maine in allowing [age-out](#) occurring before 21 years of age (where as the majority of states put the age at 18 years).

Oregon passed a law ([SB 572](#)) that modifies protective proceedings to permit vulnerable youth guardianships for adults who are 18-20 years old who are eligible for Special Immigrant Juvenile

Status and were unable to be reunified with parent due to a use, neglect or abandonment before the adult turned 18 years of age.

Standby Guardianship

Why it matters: Standby guardianship is an important tool that enables parents to plan for the future care of their children. It allows a parent to designate an adult to be on standby to assume guardianship of a child only when a triggering event occurs such as incarceration, a terminal illness, or death that could render the parent incapable of caring for a child — typically without losing the parent’s legal or parental rights. In most states, immigration emergencies are not specifically listed as qualifying which puts children and families at risk.

This is particularly important for mixed immigrant families. In 2016, there were approximately [5 million U.S. born children](#) with at least one undocumented parent. Should that parent ever get detained by immigration enforcement, it is imperative that a plan be in place regarding the child’s life. In 2019, after the [Mississippi raids](#), we saw the damage done to children when no plan is in place.

Legislative drafting notes: These types of laws should be enacted by states with specific language regarding immigration enforcement being a triggering event, or with enough flexibility in the language that it could be included if the event happens. There should also be consideration about the parent still retaining their rights, as well as ways to extend the guardianship should the need arise.

Session highlights:

New Jersey passed a law ([AB 4640](#)) that provides for standby guardianship through a properly executed power of attorney that is valid for one year and can be renewed for that amount of time as needed. This is particularly important in cases where an immigrant parent is put in immigration detention. Children will oftentimes not only have to undergo the psychological trauma of not being with their parent, but then loved ones may struggle in enrolling a child, getting them proper medical care, etc.

Unaccompanied Immigrant Children & In State-Licensed Residential Child Care Facilities

Why it matters: As immigrant children cross the border, they have been going to different facilities run by the U.S. Department of Health and Human Services’ Office of Refugee Resettlement, or ORR. Unfortunately, COVID has limited the use of facilities and expanded its capacity to other areas which include state-licensed facilities. There have already been [allegations](#) of children being put in danger. Other locations, such as the San Diego Convention Center, have done the best they can trying to give children a little piece of home while they [sleep on cots](#) in the middle of open rooms. It is

important to have state oversight, as they are closer to what is happening and can ensure that each facility is providing the best care possible for children.

Legislative drafting notes: Each state that is housing immigrant children should be passing laws that ensure the proper care of children. While ORR is at the federal level, the states can still conduct investigations for those areas that are state licensed.

Session highlights:

Colorado passed [HB 1313](#) to give authority to the Office of the Child Protection Ombudsman to investigate and review the safety and well-being of unaccompanied immigrant children who live in a state-licensed residential child care facility and who are in ORR Custody.

Unauthorized Practice of Immigration Law (UPIL)

Why it matters: The repercussions of a faulty filing can be dire and place someone in removal proceedings who would not have been there had it been filed by an attorney, cost someone their savings, and have other catastrophic consequences for people in vulnerable positions. Safeguarding immigrants against the unauthorized practice of immigration law is essential consumer protection.

Legislative drafting notes: DOJ accredited representatives are not attorneys, but are authorized to practice immigration law in limited capacities. Anti-UPIL laws should be drafted cautiously so as not to impact this vital program in meeting legal service's needs.

Any laws that are drafted should refer to the "unauthorized practice of immigration law" to ensure that it is understood this is something that impacts the entire immigrant community — and not just the Spanish speaking members who are targets of "notario fraud."

We see states putting in language about not being an attorney licensed to practice law in this state. As immigration is federal, many attorneys will represent clients in nearby states. Having any language about not being licensed to practice law in a particular state may have the unintended consequence of limiting out-of-state pro bono volunteers who are licensed to practice elsewhere.

Session highlights:

Arizona revised a law through [SB 1115](#) and added various sections including prohibited acts related to the unauthorized practice of immigration law. This included: "A commission as a notary public does not authorize an individual to assist persons in drafting legal records, give legal advice or otherwise practice law; act as an immigration consultant or an expert on immigration matters; represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters." The additions also include not being able to

receive compensation for such acts, not engaging in false or deceptive advertising, and that a notary public who is not an attorney licensed to practice law in the state, may not use the term “notario” or “notario publico.”

In their advertisement of their services, notary publics must include the language that, “I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.” Any notary public who performs the unauthorized practice of law will have their commission permanently revoked and could be fined up to \$1,000.

U Visa Certification

Why it matters: Congress created the U visa in order to assist immigrant victims of certain qualifying crimes. In order to submit an application, victims must obtain certification of USCIS Form I-918 Supplement B, U Nonimmigrant Status Certification. This increases trust between the immigrant community and law enforcement, which in turn leads to immigrants being more likely to report crimes.

Although there is a federal law regarding U visas, there are no real specifics regarding certification which has been left up to the discretion of law enforcement. Unfortunately, this has led to inconsistent policies around when a certifier will sign the document, or if they will sign at all. Often, a certifier with certain biases may not even sign.

Legislative drafting notes: For the best laws on U visa certification, it is important to require a presumption of helpfulness in the investigation or prosecution of a case in order to take out the guesswork from certification. There should also be a turnaround time for certification to ensure that the document does not stay with a certifier for months on end. There should also be a clause for faster certification when needed. Finally, there should be some provision for tracking of certification approvals and denials as well as an accountability mechanism.

Session highlights:

Colorado

Governor Polis signed Colorado [HB 1060](#) into law on May 10 to go into effect Sept. 1, 2021. Initially, there is a 120-day turnaround time for normal applications and 60 days for applications where someone is aging out or in removal proceedings. After July 1, 2022, the turnaround time for normal applications will be made shorter, moving to 90 days, while the expeditious time goes to 30 days. The applicant needs to provide proof of the need for a quick turnaround. The law specifically states that “a certifying agency’s inability to communicate with a victim due to the victim’s language must not be considered a refusal or failure to provide assistance.” In order to provide some accountability, certifiers need to provide the reason for denial of certification when it happens (lack

of jurisdiction, not a qualifying crime, immigrant was not helpful). This needs to be documented and provided to the requestor who will have the opportunity to respond and provide supplemental information to re-request certification when applicable. There is a prohibition on disclosure of the victim's immigration status. There is also a duty to inform victims of U visa certification. There is also a requirement to report to the Division of Criminal Justice in the Department of Public Safety.

Virginia

Virginia's U visa certification law ([SB 1468](#)) was enacted on March 31, 2021. It went into effect July 1, 2021. A certifier should respond to the request within 120 days. If the immigrant is in removal proceedings or detained, the timeline is shorter, requiring a response within 21 days. There are also age-out provisions. For denials, certifiers must provide a written explanation to the victim or victim's representative. If the request is for a certifier to reissue a certification form that was already provided, they should do so within 90 days unless the victim has an immigration deadline to meet. It also provides a section clarifying that completion of the form is not sufficient evidence that an applicant has met all eligibility requirements for the visa — as that is in the sole purview of USCIS. This is important as oftentimes certifiers believe that certification means the victim will receive a visa — when there are several other factors the immigrant needs to show. Although it may appear counterintuitive to include in a bill, Virginia's law also includes a section about certifiers being able to inform USCIS if the victim fails to be helpful. It is important to put this in because certifiers also can be reluctant to certify if their case is still pending. This gives a little more assurance that the immigrant will continue their cooperation. That being said, this really only should be used in the most extreme of circumstances since any abuse of this will result in a cooling of reporting crimes to the police.

Regarding enforcement, the law provides civil and criminal immunity to certifiers who fail to act in good faith in compliance with the law except for "gross negligence or willful or wanton misconduct." If a certifier does not reply in time or refuses to certify, the applicant can "petition a circuit court to review the determination of the certifying agency within 30 days of such determination... Upon conducting a hearing and the circuit court being satisfied that the applicant having proven their eligibility for completion of a certification form by a preponderance of the evidence and the circuit court having found that the certifying agency's refusal to sign was unreasonable, a circuit court judge may execute the certification form."

Following the passage of the law, various groups teamed up to issue a practice advisory on obtaining U and T visa certification in Virginia: justice4all.org/wp-content/uploads/2021/06/LEA-Certification-Practice-Advisory_July-2021.pdf

Connecticut

Connecticut's U visa certification bill ([SB 1091](#)) added to the existing law so that there is a clause for expeditious signing which is no later than 60 days after the date of receipt or no later than 14 days if the victim is in removal proceedings or detained, or the victim's child, parents, or siblings would

become ineligible for an immigration benefit by virtue of the victim or their derivatives attaining an age which would no longer permit them to give (or receive) the benefit of a U visa derivative. The turnaround time for certification is no later than 90 days after receiving the request. In this case, the certifier needs to either complete and sign the form, provide a written denial informing the victim of the reason the request does not meet the requirements of the policy, or provides notice of extenuating circumstance outside the control of the certifier which require more time to make the decision, along with the projected time frame for a response.

Illinois

Illinois also modified its U visa certification language through [SB 667](#), adding that when completing the certification form, “there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.”

For any denials, the certifier will provide written notice explaining the denial and will accept appeals for 30 days. There is also a requirement for law enforcement agencies to submit a report annually to the state Attorney General with information about the number of requests received, when they were received, and whether certification was approved or denied.

Massachusetts

Massachusetts signed [HB 4002](#) into law on July 16, 2021. It requires that certifiers adopt a policy for completing and signing nonimmigrant status certification forms. Significantly, it adds the following regarding U visas: “As used in this subparagraph, ‘expeditiously’ means not later than sixty days after the date of receipt of the request for certification of helpfulness, or not later than fourteen days after the date of receipt of such request if (I) the victim is in federal immigration removal proceedings or detained, or (II) the victim's child, parents or siblings would become ineligible for an immigration benefit by virtue of the victim or the sibling of such victim attaining the age of eighteen years, or the victim's child attaining the age of twenty-one years.”

California

Previously, California passed several laws regarding U visa certification. To be able to correctly navigate the various changes, The Immigrant Legal Resource Center issued a Practice Advisory on California laws on the U visa: ilrc.org/sites/default/files/resources/6-21_ca_state_u Visa_laws.pdf.