



States Reject Immigration Enforcement Measures and Advance Inclusive Policies in 2016

NATIONAL IMMIGRATION LAW CENTER
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THE NATIONAL IMMIGRATION LAW CENTER is one of the leading legal advocacy organizations in the United States exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. Our work focuses on key issues that affect low-income immigrants' lives. These include paths to citizenship and legal status, access to health care and economic support programs, workers' rights, access to education and training, and immigration enforcement policy reforms. A distinctive feature of our approach is that we use core, integrated strategies—litigation, policy analysis and advocacy, and strategic communications—to advance our mission.

NILC is at the forefront of many of the country's greatest challenges when it comes to immigration issues. Over the past 37 years, we have won landmark legal decisions protecting basic human and civil rights, and advanced policies that reinforce our nation's values of equality, opportunity, and justice. Headquartered in Los Angeles with an office in Washington, DC, NILC has decades of federal advocacy experience combined with a long history of connections with state and local groups across the country. Policymakers, community organizers, legal advocates, and the media recognize NILC staff as experts on a wide range of issues that affect the lives of low-income immigrants.

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COVER PHOTO: "A Day Without Latinxs and Immigrants" rally in the Wisconsin state capitol, February 28, 2016.

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2016 marked a departure from earlier years, with a high-pitched partisan battle between state elected officials and President Barack Obama on immigration and refugee policy, as well as backlash against localities that had chosen to limit their entanglement with immigration enforcement efforts.

In late 2015, following a fatal shooting in San Francisco that drew nationwide attention, **North Carolina** [enacted a law](#) barring localities from limiting immigration enforcement, and prohibiting acceptance of consular, municipal, and faith-based identification documents, with a narrow exception.¹ In 2016, anti-“sanctuary city” and other immigration enforcement measures were introduced in at least **27 states**. As the Syrian refugee crisis escalated in Europe, and following the Nov. 13, 2015, Paris attacks, **30 governors** [expressed opposition](#) to the resettlement of Syrian refugees in the U.S.,² and bills filed in at least **19 states** sought to delay or otherwise interfere with refugee resettlement.

Despite these significant challenges, the groundwork built by immigrant rights advocates and allies proved effective in defeating virtually all of the restrictive bills. Thanks to strategic organizing by advocates, directly affected communities, faith-based groups and businesses, and to the testimony of municipal and law enforcement leaders, almost all of the anti-immigrant proposals died. Exceptions included an anti-refugee resolution in **Tennessee**, relatively minor bills in **Arizona** and **Georgia**, and a measure limiting the use of municipal identification documents in **Wisconsin**.

Arizona organizers defeated 10 of 12 proposed enforcement bills, including one that would have required undocumented immigrants to serve the maximum possible sentence for any offense, and one that would have restricted the use of municipal IDs. Soon thereafter, [Phoenix](#) (Ariz.) joined [Detroit](#) (Mich.), [Paterson](#) (N.J.), and other cities that issue—or soon will issue—municipal IDs to their residents, regardless of their immigration status.³ Attempts to thwart refugee resettlement so far have been [unsuccessful](#).⁴ Although most state legislative sessions have concluded, at least one anti-sanctuary city bill remains pending in **Pennsylvania**.

By contrast, measures expanding access to health care and professional licenses, strengthening workers’ rights, or challenging the criminalization of communities of color were enacted in several states this year. In **California**, Governor Jerry Brown signed a series of bills aimed at integrating immigrants more fully into the state’s economy, by protecting the rights of farm and domestic workers, improving access to health care and the health professions, and addressing law enforcement practices that disproportionately harm immigrants and communities of color. The state also

invested \$30 million to assist immigrants in securing deferred action or other immigration relief and applying for citizenship.

Similar campaigns built momentum and are likely to continue in 2017. This progress reflects the growing power of immigrant communities, as politicians contend for the votes of Latino, Asian, and Black Americans. A strong showing in the elections could provide more fuel for inclusive policies.

Expanding Access to Health Care and Other Essential Services

State Level

After almost a decade of advocacy, laws were enacted in [Florida](#) and [Utah](#) that make Medicaid available to lawfully residing children regardless of their date of entry into the U.S.⁵ [Illinois](#) adopted a measure offering health coverage, nutrition, and cash assistance to survivors of trafficking and other serious crimes and to asylum applicants.⁶ [Oregon](#) will provide insurance-premium assistance to help low-income

residents who entered the U.S. under the terms of the Compact of Freely Associated States (COFA) buy health care coverage in the health insurance marketplace.⁷

[California](#)'s Medi-Cal program [became available to children](#) regardless of their immigration status this year,⁸ and the state is [seeking a federal waiver](#) that would allow adults to buy coverage in the health insurance marketplace at full cost, regardless of their immigration status.⁹ Governor Brown also signed a [measure](#) requiring the state Department of Public Health to use data on additional subgroups of Asian and Pacific Islander Americans, in order to capture a more complete



California immigrant rights activists in front of the state capitol.

picture of their needs.¹⁰ However, he vetoed a bill that would expand access to nutrition assistance for a broader group of lawfully present immigrants, suggesting that spending on this and other worthy programs be considered in the 2017 state budget negotiations.

Local Level

Local efforts to expand access to health care also made progress this year. [New York City](#) implemented ActionHealthNYC, which provides access to primary and specialty care for low-income residents who are not eligible for Medicaid or Affordable Care Act coverage.¹¹ In California, [Sacramento](#) and [Contra Costa](#) counties

established limited programs that provide primary and preventive care services to their undocumented residents.¹² And [Cook County](#) (Ill.) approved an ordinance to launch a direct access program, which will provide coordinated care through a medical home with access to emergency care and specialists. The program is expected to offer access to 40,000 people with incomes up to 200 percent of the federal poverty level and will be open to all county residents, regardless of their immigration status.¹³

Extending Access to Professional Licenses and Careers

The **Nebraska** legislature [overrode their governor's veto](#) and expanded access to professional licenses for people granted Deferred Action for Childhood Arrivals (DACA) and other lawfully present immigrants.¹⁴ “Building on the previous year’s victory that secured driver’s licenses for DACA youth and similarly situated immigrants, the same diverse coalition of youth and allies worked in 2016 to pass a law ensuring that work-authorized immigrant Nebraskans can obtain professional licenses in order to fully contribute to their communities and the state economy,” Omaid Zabih, staff attorney for Nebraska Appleseed’s Immigrants and Communities Program, said when asked about this development. “Our state’s future is brighter because we can harness the skills, education, and entrepreneurial spirit of Nebraska’s talented youth.”¹⁵



Nebraska state senators stand to applaud immigrant youth activists after overriding governor's veto.

Similarly, the **New York** Board of Regents approved regulations allowing lawfully present immigrants to obtain [over 50 types](#) of professional licenses.¹⁶ **California**'s law making [professional licenses](#) available to eligible individuals regardless of their immigration status went into effect this year.¹⁷ This year, too, California's governor signed a [law](#) offering loan repayment, grants, training, and scholarships to health care professionals who agree to practice in underserved communities, and providing that students who meet certain criteria can participate in medical degree programs and unpaid healing arts residency programs, regardless of their immigration status.¹⁸

Strengthening Workers' Rights

California

California passed another set of historic laws that strengthen workers' rights and remove obstacles to opportunities for immigrant job-seekers.

This year, California extended overtime pay to domestic workers and farmworkers, who are excluded from many basic labor protections under federal law. The governor signed legislation making permanent the state's 2013 [Domestic Worker Bill of Rights](#), which provides overtime rights to domestic workers, by eliminating a provision that would have caused the bill to expire in 2017.¹⁹ California also passed legislation establishing the right to [overtime pay for farmworkers](#) after an 8-hour workday.²⁰ While states including Hawaii, Maryland, and Minnesota require overtime for farmworkers under certain circumstances, California is the first state in the nation to create a right to overtime for farmworkers after 8 hours of work in a day.

In addition, California enacted a law providing penalties for committing "document abuse." According to the new law, document abuse occurs when an employer, in administering the federal employment eligibility verification process, asks the employee to present more or different documents than are required under federal law, refuses to honor documents that on their face reasonably appear to be genuine, refuses to honor documents or work authorization based upon the specific status or term of status that accompanies the authorization to work, or uses "an unfair immigration-related practice" to reinvestigate or reverify an existing employee's employment eligibility.

Finally, California removed unnecessary barriers for immigrant jobseekers and workers by eliminating a prior requirement that state or local government or community agencies verify the immigration status or work authorization of participants in job-training programs or employment services.

Illinois, Colorado, Maryland

Illinois became the seventh state to extend certain employment protections to domestic workers when it enacted a [Domestic Workers' Bill of Rights](#).²¹ The law provides that child care workers, housecleaners, home care workers, and other domestic workers receive the state minimum wage as well as protection from sexual harassment. The law also requires at least a 24-hour day of rest in every calendar week for domestic workers who work for one employer for more than 20 hours in a week.

Colorado [repealed](#) a state law that required employers to complete and maintain a written employment eligibility affirmation that was duplicative of the federal requirement that employers complete and retain I-9 employment eligibility verification forms for newly hired employees.²²

Maryland joined California and other states that have expanded the crime of extortion to include threats to notify, or actual notification of, law enforcement officials about a person's immigration status. Advocates [emphasized](#) that the new law

will protect survivors of trafficking and those forced into exploitive labor conditions.²³

Tennessee

On the other hand, the Tennessee legislature enacted a [law](#) that will require private employers with 50 or more employees to enroll in the E-Verify program.²⁴ This requirement to use the federal government’s electronic employment eligibility verification program to verify newly hired employees’ identity and employment eligibility will apply to people hired on and after January 1, 2017.



Wisconsin workers, many of them immigrants, march on May Day, 2016.

Advancing Criminal Justice Reforms and Bringing Transparency to Law Enforcement Practices

California

California adopted several reforms to mass incarceration and law enforcement practices that will benefit immigrants and citizens alike.

A [new law](#) provides that people of all ages have the right to be notified if a law enforcement agency adds their name and information to a shared gang database, the right to challenge their being designated a gang member or affiliate with the law enforcement agency that made the designation, and, if the law enforcement agency rejects their challenge, the right to appeal to a state superior court.²⁵ It also requires the state to release data every year on the numbers and demographics of people added to or removed from shared gang databases. The law will bring more

transparency and accountability to the use of gang databases, which broadly target low-income communities of color.

Members of youth justice, criminal justice, and immigrant rights groups offered powerful testimony to California legislators about the effect of being included—or *possibly* being included—in a gang database. Juan Peña, for example, has never been arrested, but he testified that he is afraid that if he applies for Deferred Action for Childhood Arrivals, he will be found ineligible, since he may be listed in a gang database. This is because he grew up in a gang injunction zone, and police regularly stopped and questioned him.

As community organizer and cofounder of Justice4SD33 [Aaron Harvey](#) explained before Governor Brown signed the new law, “Today, in California, you can be placed



on a secret list, with life-threatening implications, and never even know your name was added. The only reason I found out about this hidden database, called CalGang, is because being on the list nearly landed me in prison for life less than a year ago.”²⁶ Indeed, a [report](#) issued this year by the California State Auditor reveals that over 42 babies less than one year old were included in the gang database.²⁷

Governor Brown signed other bills, too, that challenge the criminalization of communities of color and increase the transparency of law enforcement practices. One [new law](#) prohibits the ticketing of minors for public transportation–related issues.²⁸ Another, the Transparent Review of Unjust Transfers and Holds ([TRUTH Act](#)), requires law enforcement officials to advise people held in jail of their rights with respect to being interviewed by U.S. Immigration and Customs Enforcement (ICE) and to obtain interviewees’ written consent prior to such ICE interviews.²⁹ It also requires that a copy of any ICE hold request (when ICE requests that a person be kept in jail beyond their sentence, enabling ICE to take custody of them), notification, or transfer request be given to the person who is the subject of the request or notification.

In addition, California [made retroactive](#) a law providing that all misdemeanor crimes have a maximum sentence of 364 days.³⁰ This will help keep certain immigrants, including lawful permanent residents, from being found deportable based on their having committed certain minor offenses. Federal law treats some misdemeanors with 365-day sentences as “aggravated felonies,” and having been convicted of an aggravated felony is a ground of removal.

The legislature also passed a [resolution](#) urging the federal government to ensure that children have a right to counsel in immigration proceedings.³¹

However, Governor Brown [vetoed](#) a measure that would have ended the use of private immigration detention centers in California.³² That bill would have prohibited local governments from contracting with for-profit entities to detain immigrants on behalf of federal immigration authorities. The governor also [vetoed](#) a measure that

would have provided that youth under 18 years of age must consult with a defense attorney prior to waiving their Miranda rights.³³

Illinois, New Jersey

Other states also addressed conditions for people in law enforcement custody. **Illinois** and **New Jersey** lowered phone rates for people who are incarcerated, to facilitate their ability to maintain family relationships. The governor of Illinois signed his state's bill as part of a [package](#) of criminal justice reforms.³⁴ Advocates in New Jersey [pointed out](#) that exorbitant phone rates are particularly hard on immigrant detainees who need to call their relatives and others abroad in order to gather evidence for their immigration proceedings. New Jersey's new law will significantly reduce the international phone rates charged in jails.³⁵

Arizona, Georgia

Arizona, on the other hand, [repealed a statute](#) that allowed for the early release to ICE, under certain conditions, of detained individuals with orders of deportation.³⁶ And in enacting a new [community reentry work program](#) for people who were formerly incarcerated, it excluded from eligibility for the program individuals for whom ICE has issued an immigration hold request.³⁷

Georgia enacted a [law](#) making mandatory an existing provision that, in order to receive certain funds, localities must certify that they are not "sanctuary" cities.³⁸

Protecting Consumers, Documenting Identity, and Other Rights

Colorado

Colorado advocates secured several new laws protecting consumers this year. The legislature addressed [deceptive practices by notarios](#) who are not licensed to practice law.³⁹ It also [established a fund](#) to assist Colorado residents who are survivors of domestic violence or natural disasters, low-income, homeless, seniors, or persons with disabilities seeking documentation of their identity, status, or citizenship.⁴⁰

Another Colorado [measure](#) outlaws the selling of scarce appointments for people seeking a driver's license.⁴¹ This became an issue after a state legislative committee refused to spend the driver's license application fees collected from undocumented immigrants to staff additional offices that accept their applications for licenses. The three available offices [negotiated in a compromise](#) remained woefully insufficient to process applications from Coloradans who lack proof of authorized presence.⁴² Although [attempts](#) to open more offices were unsuccessful this year, the issue could become relevant in the upcoming election and is likely to be raised again next year.⁴³

California

California enacted measures that assist immigrants in pursuing their claims in court and in obtaining notarized documents. [One new law](#) provides that evidence of immigration status and discovery of immigration status is not permitted in civil

actions for personal injury or wrongful death.⁴⁴ [Another new law](#) will allow people to use consular identification documents and valid foreign passports to establish identity, and will eliminate the requirement that the foreign passport be stamped by the U.S. Department of Homeland Security.⁴⁵

Conclusion

Empowered immigrant communities and allies defeated restrictive proposals and advanced inclusive state and local policies this year. As the country's demographics continue to change, the conversation about immigrants has been shifting in key states like Colorado, Florida, and Virginia. Even Arizona policymakers have begun to recognize that anti-immigrant measures are economically and politically unwise, and advocates in Phoenix have forged new ground.

Immigrant rights campaigns have joined broader movements to reform institutions, break down barriers, and create opportunities for people living and working in the U.S. The heated rhetoric in the federal debate has tended to mask the continued progress of and growing bipartisan support for inclusive state and local measures that benefit all community members.

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