

What States Can Do to Mitigate the Harm If DACA, TPS, and Other Forms of Immigration Relief End

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The Trump administration has systematically made it more difficult for non–U.S. citizens who’ve lived in the U.S. for years, even decades, to obtain immigration relief. Two avenues to relief, **Deferred Action for Childhood Arrivals (DACA)** and **temporary protected status (TPS)**,¹ have allowed hundreds of thousands of community members across the country to thrive. Yet DACA and TPS are under threat. They remain available only because of effective advocacy, organizing, and court orders. The option to request DACA and the

¹ DACA: <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>; TPS: <https://www.uscis.gov/humanitarian/temporary-protected-status>.

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designations of some countries as countries whose citizens and former residents are eligible for TPS have been kept in place only because of orders issued by federal courts. Even the reprieve resulting from the June 28, 2020, U.S. Supreme Court decision allowing DACA to remain available may be temporary if the Trump administration attempts to terminate DACA again.

Forms of immigration relief, such as DACA and TPS, that don't include a pathway to U.S. citizenship are themselves assailable when an administration is hostile to immigration and immigrants, *and* they leave the people who benefit from them perpetually vulnerable. Despite the fact that DACA and TPS have allowed some immigrants to thrive, these temporary forms of relief can always be taken away. Congress's failure to create a permanent solution for people currently eligible for DACA and TPS leaves families and communities at risk of their members being deported, forced to leave their homes. Deportations almost inevitably split families apart, causing long-term harm, in multiple ways, to local communities.

But the present administration's hostility to immigrants and Congress's failure to create permanent solutions are only part of the story. States, counties, and cities, recognizing the importance of their community members, have created immigrant-inclusive policies and programs. The federal-level immigration crisis offers an opportunity for state and local advocates and policymakers to assess what can be done to support immigrant communities. Since immigration relief is fluid and sometimes fickle, how can localities support their residents regardless of their immigration status? A person's connection to home and community doesn't change when their immigration status changes. How can state and local policies reach individuals in the places they live and have an immediate, if incremental, impact on their lives? How can they ensure that a person's immigration status doesn't prevent them from thriving?

The purpose of this guide is to present tangible policy opportunities that state and local advocates can fight for in their communities. If we all are to thrive together, we need more durable campaigns that support all residents regardless of their immigration status. Campaigns to make driver's licenses and health care available for all could make a big difference. The policies described here are presented as part of a continuum, based on what may be appropriate for different communities. In some cases, they are more immediate, initial steps toward transformative change. The threat that DACA and TPS might be taken away presents an opportunity for states and localities to come together to find enduring solutions that minimize harm and protect the health and well-being of everyone who lives in them.

Promoting Just and Dignified Work

One benefit of having DACA or TPS is that these forms of relief are accompanied by authorization to be employed in the U.S. The vast majority of people with DACA are employed, and for these hundreds of thousands of people a loss of work authorization would have drastic effects on their lives, their employers, and their communities. The threat that hundreds of thousands of employees could be stripped of their work authorization comes at a time when the federal government is funneling unparalleled resources into worksite immigration enforcement while simultaneously **rolling back key workers' rights protections**.² Retaliation is rampant, and immigrant workers face significant barriers to being able to organize to defend their rights. For many, losing work authorization will mean losing their job and their livelihood. For others, loss

² <https://www.epi.org/publication/ten-actions-that-hurt-workers-during-trumps-first-year/>.

of work authorization will increase their vulnerability on the job and make them more likely to face violations of their workplace rights.

States and localities must stand with DACA workers and all immigrants in their sincere efforts to earn a just and dignified livelihood. This can mean passing laws and advocating for administrative labor law agencies to prevent unlawful discrimination against employees or creating conditions that allow all workers to thrive. Finally, there are more durable steps that governments can take that would make worker's rights a priority.

Policy: Create safe workplaces free from discrimination

- Create affirmative protections from retaliation and discrimination based on immigration status.

EXAMPLES

- **New York City.** The NYC Commission on Human Rights Legal Enforcement Guidance provides guidance to employers on protections against discrimination based on immigration status or national origin contained in relevant law. Importantly, the guidance emphasizes that discrimination or harassment in favor of U.S. citizens over other work-authorized individuals is generally prohibited, addresses impermissible verification and reverification of a worker's immigration status, and reiterates that threats to call U.S. Immigration and Customs Enforcement (ICE) may constitute retaliation.
- **New York.** **SB 5791** amended New York labor law to create an expanded definition of retaliation that includes contacting or threatening to contact and reporting or threatening to report an employee's suspected citizenship or immigration status to immigration authorities.³ SB 5791 also enhanced the penalties for retaliation.
- **California.** **AB 263** and **SB 666** amended California labor law to prohibit employers from using threats related to immigration status as a means to retaliate against employees and gives immigrant workers greater ability sue their employers for violations of their rights.⁴ In addition, **AB 2667** amended California's civil rights law to include citizenship and immigration status as protected bases.⁵

Policy: Empower workers with information about their legal rights; support workers through acts of solidarity

- Affirm the value of workers with DACA and TPS in our communities and economies through public statements and resolutions. Demand that the federal government act to automatically extend or restore work authorization for TPS and DACA-eligible workers.
- Authorize/establish statewide funds accessible to workers who lose their jobs, regardless of their immigration status. This could follow the lead of public and private efforts at the state

³ <https://www.nysenate.gov/legislation/bills/2019/s5791>.

⁴ AB 263: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB263; SB 666: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB666.

⁵ AB 2667: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB2667.

level that have sought to provide wage replacement or other economic support to people who have lost income during the COVID-19 public health crisis.⁶

- Issue guidance from state and local labor agencies focusing on the workplace rights of workers with DACA and TPS.
- Require that employers provide workers with notice of an I-9 (employment eligibility verification form) audit, a form of worksite immigration enforcement.

EXAMPLES

- **Oregon.** **SB 370** requires that upon receipt of a Notice of Inspection (NOI) by a federal agency, employers must notify their employees that an I-9 audit will occur.⁷ In addition, the Oregon **Worker Relief Fund** is seeking to replace up to 60 percent of lost wages for state residents who are unemployed due to COVID-19 and unable to access unemployment insurance due to immigration status.⁸

Policy: Prohibit unjust use of the immigration enforcement system in the workplace by employers and local law enforcement

- Repeal or limit government mandates that employers use E-Verify and ensure that when employers do use E-Verify, workers' rights are respected. (E-Verify is the federal government's internet-based employment eligibility verification system.)
- To the extent permissible under federal law, prohibit local law enforcement from providing support for ICE worksite raids.

EXAMPLES

- **California.** **AB 1236** prohibits the state government and any city, county, or special district from requiring employers (other than a government entity) to use E-Verify as a condition of receiving a government contract, applying for or maintaining a business license, or as a penalty for violating licensing or other similar laws.⁹ Largely because of **the flaws in and harmful impact of the E-Verify system**, **AB 622** prohibits the use of E-Verify to prescreen employees or in a manner not required by federal law, regulation, or memorandum. In the event that the E-Verify system issues a tentative *nonconfirmation* (TNC) that an employee is work-eligible, the law also requires the employer to give the employee a copy of the TNC.
- **Illinois.** **Public Act 096-0623** contains a wide variety of strong requirements that employers must comply with and prohibits conduct such as prescreening workers and adverse action against employees (such as firing them) before the employer receives, from the E-Verify system, a final *nonconfirmation* (FNC) of the employee's work-eligibility.¹⁰ The

⁶ For examples of these kinds of programs please see NILC's publication on state and local responses to COVID-19, *Shared Crisis, Shared Solutions*, <https://www.nilc.org/resources-covid19-crisis-and-consequences/covid-19-shared-crisis-shared-solutions/>.

⁷ <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB370>.

⁸ <https://www.mrgfoundation.org/oregon-worker-relief-fund/>.

⁹ http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201120120AB1236.

¹⁰ <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=096-0623>.

law creates a claim for employees under the state Human Rights Act for certain violations relating to an employer's use of E-Verify and prohibits the state and its localities from requiring employers to use E-Verify as a condition of receiving a government contract, applying for or maintaining a business license, or as a penalty for violating licensing or other similar laws.

- **Chicago.** In anticipation of upcoming large-scale raids, the **mayor of Chicago prohibited local law enforcement from assisting ICE.**¹¹ Statements and policies such as these, which are consistent with the city's larger noncooperation with federal immigration enforcement, can and should cover more than workplaces. However, state and local leaders' statements and policies should emphasize that law enforcement agencies must not, through their actions, support or encourage violations of workers' rights.

Maintaining and Expanding Access to Education

A grant of DACA or TPS has improved access to higher education for many immigrants. Students at risk of losing DACA or other forms of immigration relief may have trouble staying in school, especially if they lose their eligibility to work. These students may also lose access to financial support from institutions.

State and local communities and institutions can take steps to ensure that students who are enrolled in education programs are able to maintain an affordable path to reach their education goals, despite federal actions. Students in these circumstances are going through a lot. Ideally, they should be able to focus on their studies, without new worries about whether they can afford to pay for their education. These goals and priorities may vary, depending on the communities and institutions. Therefore, any policy to address these needs should be guided by directly affected students at the campus. For some campuses, this might mean pursuing municipal programs to lower bus fees, while for others it might mean investing in microwaves and fridges or building connections with food banks to ensure that students can stay well-nourished and save money otherwise spent on food. The goal of any program should be to ensure that federal actions to take away immigration relief do not cause further harm by derailing students' educational goals.

Transformative change means eliminating ways that status determines opportunities. Currently, public colleges and universities are inconsistent in their treatment of undocumented students. A few schools deny them admission. If they are admitted, undocumented students in many states are charged out-of-state tuition, which is several times the in-state tuition rate. Some states have laws or policies providing for tuition equity regardless of a student's immigration status. Some institutions have established scholarships and programs to support all students, regardless of immigration status.

¹¹ <https://www.cnn.com/2019/06/21/politics/lori-lightfoot-chicago-mayor-ice-raids-police/index.html>.

Policy: Establish paths to education for all residents and maintain continuity of access for current students by establishing a tuition equity law or policy and pairing it with state- or institution-based financial aid

- Issue policy guidance that any student eligible for enrollment and in-state tuition upon acceptance and admission to colleges and universities need not revalidate their eligibility, ensuring that any student currently enrolled in programs can maintain their status quo.
- Adopt a tuition equity policy that opens access to in-state tuition and certain forms of financial aid for students who meet the criteria, regardless of their immigration status or state residence. NILC has [model language](#) that is typical of a state tuition equity law that's meant to help students who attended school in the state.¹² The emphasis is on state school attendance rather than state residence, which is in compliance with federal law.
- Create institution-based scholarships that are available for students who meet certain criteria regardless of their immigration status.
- Amend any existing tuition equity policies, scholarships, or programs that require DACA or a specific immigration status to remove these requirements.

EXAMPLES

- **21 states and DC.** At least 21 states and the District of Columbia have tuition equity laws or policies. For a map and table of state laws and policies improving access to higher education for all immigrants, see NILC's [Access to Postsecondary Education Toolkit](#).¹³
- **UC Berkeley.** The [Cal Alumni Association Leadership Award](#) is a \$2,000 scholarship for first-year and junior transfer UC Berkeley students or current second, third, fourth, and fifth-year UC Berkeley students.¹⁴ Any Cal undergraduate is eligible to receive the award.

Policy: Craft policies that make sure affordability is not a higher burden for students without immigration status

- Accept alternative methods of showing financial need. DACA recipients are ineligible for any benefit deriving from the Free Application for Federal Student Aid (FAFSA) but can still fill out the form to show financial need. Students who lose their DACA and thus become undocumented may not fill out a FAFSA to show financial need. States and colleges or universities can create an alternative way for students to show financial need, such as by creating their own form.
- Build scholarship opportunities that do not exclude people by requiring that they have DACA, TPS, or a specific immigration status. Immigration status can be fluid, and it's not uncommon for people to go in and out of status or obtain a new status. Availability of

¹² <https://www.nilc.org/eduaccesstoolkit2b#model>.

¹³ <https://www.nilc.org/issues/education/eduaccesstoolkit/>.

¹⁴ <http://alumni.berkeley.edu/community/scholarships/leadership-award>.

scholarships that don't exclude based on immigration status is crucial for people who are ineligible for DACA or other existing forms of immigration relief.¹⁵

EXAMPLES

- **Texas.** Texas created the [Texas Application for State Financial Aid \(TAFSA\)](#),¹⁶ which like the FAFSA collects basic identifying information and assesses several factors that may help in determining the student's financial needs. Among them are the student's projected enrollment status (full-time vs. part-time), income (or parents' income), household size, independence, relevant expenses (e.g., child support) and other sources of assistance (e.g., work study and public benefits). For accessibility, the form is available in Spanish and English. The form also includes notes at the end with clarifications for each question.
- **California.** Similar to the FAFSA and TAFSA, the [California Dream Act Application \(CADAA\)](#) collects basic identifying information and assesses financial needs along similar metrics.¹⁷ In the pursuit of student and parent income information, these forms specifically reference Internal Revenue Service (IRS) forms. The CADAA also is available in both Spanish and English. It provides an explanation about what will be done with applicants' information, which encourages greater use by students unsure about filling out the form and disclosing their personal information.
- Examples of financial aid and scholarships available to students regardless of immigration status are available in NILC's [Resources on Financial Aid & Scholarships for Students Regardless of Immigration Status](#).¹⁸

Professional and Career Opportunities

Immigration relief such as DACA and TPS removes a barrier to practicing certain occupations and professions in many states. Restrictions on professional licenses prevent people from pursuing their dreams while also harming the community that might have benefited economically from their contributions and improved quality of life. For example, prior to the availability of DACA, undocumented youth had to put their aspirations to become doctors on hold, because there was no way for them to enter the medical profession. They lacked the documentation and work authorization required to be admitted to medical school and residency programs, to be trained and eventually licensed. A growing network of students who are pursuing and attaining careers in science and health, including medical professionals, formed [Pre-Health Dreamers](#) to support their progress.¹⁹ State and local institutions can play a role in ensuring their continued success even if forms of immigration relief such as DACA are taken away.

¹⁵ Information about financial aid and scholarships available to students regardless of immigration status is available at <https://www.nilc.org/issues/education/estimates-of-eligible-students/aid-scholarships-groups/#aid>.

¹⁶ <https://www.finaid.txstate.edu/more-info/TASFA.html>.

¹⁷ <https://dream.csac.ca.gov/>.

¹⁸ <https://www.nilc.org/issues/education/estimates-of-eligible-students/aid-scholarships-groups/#aid>.

¹⁹ <https://www.phdreamers.org/>.

Policy: Remove barriers to licensure based on immigration status

- Pass a law that affirmatively expands eligibility for occupational and professional licenses to include all eligible individuals regardless of their immigration status.

EXAMPLES

- **California.** In California, a license or certification is required for more than 100 different jobs, including barber, cosmetologist, and pest control applicator. **SB 1159** makes such professional and occupational licenses available to applicants, regardless of their immigration status, by allowing them to present an Individual Taxpayer Identification Number (ITIN) in lieu of a Social Security number. This law was passed after the state legislature had expanded access to attorney licenses regardless of immigration status, and, via **AB 2184**,²⁰ California later expanded access to business licenses for people who file their income taxes using ITINs.
- **Oregon.** **SB 855** establishes a board to study how to remove barriers to professional licensing for immigrants and refugees.²¹

Policy: Establish professional and career opportunities available regardless of immigration status

- Engage in administrative and institutional advocacy to push for comparable opportunities and programs to be available to all students, regardless of immigration status. Access to these opportunities will help them become competitive candidates for jobs or for college and graduate and professional schools.
- Establish fellowships, internships, apprenticeships, and entrepreneurial opportunities that are available regardless of a person's immigration status.

EXAMPLES

- **UndocuBruins Research Program at UCLA.** A six-month research and graduate school preparation program that provides research funding for undocumented UCLA students who are ineligible for other research and graduate school preparation programs, such as the McNair Research Scholars program, due to federal funding limitations.
- **Immigrants Rising** is leading the effort to expand income and career options for undocumented immigrants by providing them with the **tools and resources** they need, collaborating with **colleges and universities**, and working with the **state of California** to pass laws supporting these efforts.²²

²⁰ http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2184.

²¹ <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB855>.

²² <https://immigrantsrising.org/resource/overview/>; <https://immigrantsrising.org/resource/income-and-career-alternatives-for-undocumented-students-webinar/>; <https://immigrantsrising.org/resource/income-and-career-options-for-undocumented-students-how-colleges-can-help-webinar/>; <https://immigrantsrising.org/resource/newish-rights-in-ca-state-legislation-to-support-undocumented-immigrant-entrepreneurs-webinar/>.

Access to Driver's Licenses and Identity Documents

One of the most tangible and impactful outcomes of the availability of DACA and TPS has been recipients' ability to obtain a form of state identification, such as a driver's license, in every state. Having a driver's license not only makes it possible to operate a car but also to access greater economic opportunities and be a more integral part of one's community. Having a driver's license enables people to drive to work, take their children to school, and attend religious services. More importantly, government-issued identity documents (IDs) and driver's licenses are necessities for everyone navigating daily life and interacting with law enforcement officials. But in most states, if DACA or TPS become unavailable, the people who had these forms of immigration relief will lose access to state-issued ID cards or licenses, including the opportunity to renew their IDs or licenses.

The most effective solution is to make government-issued IDs and licenses available to *all* eligible residents, regardless of their immigration status. Sixteen states plus the District of Columbia already have such policies in place. While licenses-for-all campaigns may take years to succeed, their benefits to communities are enormous. Even if it is not actually a legal requirement, having a driver's license often becomes a requirement in practice. To address this reality, states and localities can craft policies to prohibit requiring people to present an ID when presenting one is not necessary or policies to accept any ID from an expanded list of IDs that may include, for example, expired government documents.

States and localities can take steps to ensure that everyone can establish their identity, either by maintaining their residents' access to driver's licenses or creating new forms of ID, such as municipal ID cards. These solutions are important for immigrants at risk of losing DACA or TPS but also can be helpful for anyone who lacks the documents that applicants for government-issued IDs are usually required to present, such as people who lack housing or were recently incarcerated, transgender and gender-nonconforming individuals, and others .

Finally, to ensure that people feel comfortable applying for driver's licenses and other forms of ID, states and localities can institute policies and practices designed to protect the information applicants provide — to keep personal data private and out of the hands of immigration enforcement authorities.

Policy: Provide opportunities for people to maintain benefits of identification

- Ensure that state and local programs adopt a flexible approach to verifying a person's identity and require only the information necessary to administer the programs. If a driver's license is not necessary, it should not be required. Such programs should accept a range of documents that people might have, such as passports, student ID cards, expired work authorization, and expired driver's licenses.
- Establish a municipal ID or other alternate forms of government-issued ID. This helps to send a message of welcoming and inclusion to immigrants. This also supports other individuals who have difficulty obtaining identity documents, such as low-income and homeless populations, older adults, blind and vision-impaired people, transgender and gender-nonconforming individuals, people with disabilities, and people who were formerly incarcerated.
- Create paths that allow people whose REAL ID license expires and cannot be renewed because of their immigration status to obtain a non-REAL ID license. A person without DACA, TPS, or any of certain other immigration statuses cannot obtain a REAL ID—

compliant license, but in some states they can obtain a non-REAL ID “standard” driver’s license. Passing such laws can ensure that noncitizens whose DACA or other form of immigration relief expires can transition smoothly to obtaining a new, valid license. States can either make it possible for people with a REAL ID license to easily obtain a non-REAL ID license (via a transition process) or to use an expired federally-issued work authorization document to apply for a non-REAL ID license.

- Make driver’s licenses available to all eligible residents, regardless of immigration status. These kinds of programs have a long track record of success in improving safety, mobility, and financial security for all state residents.²³ This is why 16 states plus the District of Columbia have already taken this step. Passing such laws can ensure a smooth transition to a new license for immigrants whose DACA, TPS, or work authorization expires. Although such licenses cannot be used for official federal purposes, federal law allows states to create and issue “standard” licenses to all residents, regardless of immigration status.

EXAMPLES

Driver’s Licenses for All

- **California.** The passage of **AB 60**, California’s licenses-for-all legislation, gave individuals who cannot show proof of authorized presence, as well as other state residents who choose not to or cannot obtain a REAL ID license, access to driver’s licenses.²⁴
- **Connecticut.** **HB 6495** granted access to driver’s licenses for “driving purposes only” to individuals who cannot show proof of lawful presence or that they have a Social Security number, if they show proof of identity, residency, and sign an affidavit promising to legalize their immigration status when eligible.²⁵ A workgroup was created to examine methods of verifying foreign documents.

Municipal IDs

- **New Haven, CT.** The nation’s first city ID, the **Elm Card**, became available in 2007.²⁶ The Elm Card has been credited with fostering a greater sense of community and inclusivity in New Haven and improving relationships between immigrants and law enforcement officials.
- **New York City.** The city has issued **IDNYC** cards to over 1.3 million New Yorkers, making it the largest municipal ID program in the nation.²⁷ IDNYC also piloted braille embossing on its ID card to make the cards accessible to blind and vision-impaired city residents.

²³ For more information on the benefits of issuing driver’s licenses to all, see, e.g., NILC’s *Empirical Studies Support Issuance of Driver’s Licenses Without Regard to Immigration Status*, <https://www.nilc.org/wp-content/uploads/2017/10/driver-license-research.pdf>.

²⁴ http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0051-0100/ab_60_bill_20130912_amended_sen_v93.pdf.

²⁵ <https://www.cga.ct.gov/2013/ACT/PA/2013PA-00089-R00HB-06495-PA.htm>.

²⁶ https://www.newhavenindependent.org/index.php/archives/entry/id_card_anniversary.

²⁷ <https://www.amny.com/city-living/idnyc-card-adds-braille-for-accessibility-and-updated-perks-for-cardholders-for-fifth-anniversary-exclusive>.

Policy: Maximize protections of data held by DMVs and other state agencies

- By administrative policy or state law, ensure that state departments of motor vehicles (DMVs) obtain only information necessary to administer the licensing/ID program, retain only the information required by federal law, and not use or disclose any information held in their records for any other purpose not required by law, unless compelled to by a valid court order. It is in the best interest of all state residents — regardless of their citizenship or immigration status — that information about themselves be protected and shared only when necessary.²⁸
- Pass laws that limit disclosure of information that can indicate whether a person has a REAL ID or non-REAL ID license.
- Develop policies for handling and removing information about people who are no longer eligible for driver's licenses in a state.

EXAMPLES

- **California.** Privacy protections in the laws regarding driver's licenses limit disclosure of information collected in the application process, including the documents a person provided to obtain their license or ID.²⁹
- **New York.** New York limits disclosure of any part of a record that is part of the driver's license application process that includes a number of types of personal information, such as country of birth, that may be relevant to immigrant applicants, but its limits on disclosure of other types of information, such as source of income or medical information, are broadly applicable.³⁰

Limiting the Threat of Deportation

For recipients of DACA and TPS, obtaining a reprieve from the threat of deportation can eliminate a major barrier to safety and security. However, ICE continues to terrorize immigrant neighborhoods and rip residents away from their families and communities. Removing protections that come with immigration relief such as DACA and TPS will subject even more community members to such harm. Even worse, the federal government's campaign of mass deportations is, in some instances, supported by local government resources. The entanglement of state or local law enforcement agencies with federal immigration enforcement significantly increases risks for immigrants, who may, from time to time, need to seek help from or otherwise interact with law enforcement or other government agencies.

²⁸ For a list of examples of legislation, administrative measures and other strategies to limit DHS access to DMV information please see NILC's Protecting State Driver's License Information available at

<https://www.nilc.org/issues/drivers-licenses/protecting-state-drivers-license-information/>

²⁹ California Vehicle Code 12801.9 (j) and (k) (regarding non-REAL ID licenses),

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12801.9&lawCode=VEH;

12800.7(b) (regarding all licenses),

[http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12800.7.&lawCode=VEH.](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12800.7.&lawCode=VEH)

³⁰ New York's A3675B, sec. 2,

[https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A03675&term=2019&Text=Y.](https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A03675&term=2019&Text=Y)

This problem can't be completely solved without federal action, but states and localities can take steps to significantly limit the entanglement of their law enforcement agencies with federal immigration enforcement. Doing so can reduce local community members' fear of interacting with local government. In addition, making funding available for deportation defense programs can help ensure that immigrants who are detained can defend their rights and secure available remedies. States and localities can take steps immediately to make their communities safer for their members.

Policy: Administrative action or ordinances that stop cooperation with federal immigration enforcement

- To the extent permitted by state and federal law, enact policies that stop collaboration between local law enforcement and federal immigration enforcement (that is, “disentangle” the two), such as by prohibiting participation and allocation of resources in immigration enforcement operations and prohibiting employees from spending time responding to inquiries from ICE (e.g., notifying ICE about an individual’s custody status, release date, or scheduled appearance date for court or probation appointments).
- Prohibit compliance with ICE administrative warrants or ICE detainers unless accompanied by a judicial warrant.
- Enact policies not to ask or collect place-of-birth and citizenship information in the field and upon booking.
- Bar ICE from entering jails and prisons, as well as from accessing law enforcement databases, unless ICE presents a judicial warrant.

EXAMPLES

- **Milwaukee, Wisconsin.** For about two years, Voces de la Frontera led an effort to disentangle the Milwaukee Police Department (MPD) from ICE. In December 2019, MPD adopted an updated policy that bars inquiring about citizenship status upon arrest, prevents inquiries into immigration status of persons encountered during police operations, and requires a judicial warrant in order for MPD to respond to ICE requests for arrests and detentions.
- **Santa Clara County, California.** Santa Clara has a **policy of not allowing ICE agents access to custody facilities** (unless ICE presents a criminal warrant),³¹ and county personnel may not spend county time or resources responding to ICE inquiries or communicating with ICE about individuals’ incarceration status or release dates.
- **New Jersey.** In November 2018, the New Jersey attorney general issued a statewide **Immigrants Trust Directive**.³² It prohibits law enforcement agencies from asking about the immigration status of any individual (with a narrow exception); participating in ICE’s civil immigration enforcement operations; providing ICE with access to equipment, property, or databases; and holding people based on an ICE detainer request (except under limited circumstances).

³¹ <https://www.sccgov.org/sites/opa/newsroom/Pages/not-cooperate-with-ice.aspx>.

³² <https://www.nj.gov/oag/trust/english.html>.

Policy: Policies and judicial rules that establish safe spaces for health centers, schools/colleges, and courthouses

- Restrict ICE from entering these spaces unless ICE presents a judicial warrant or court order, and establish a written policy designating private areas.
- Limit the sharing of information between these entities and ICE by not collecting immigration status information — and, where not required, other types of sensitive information such as place of birth, visa information, or Social Security numbers — in the first place.
- For educational and health institutions, protect the personal information of students and patients, respectively, by (1) avoiding inquiry into and/or collection of sensitive information related to immigration or citizenship status, including place of birth or visa-related information, where not required; (2) requiring a valid court order or signed consent before the release of sensitive information; and (3) using federal privacy laws, such as the Family Educational Rights and Privacy Act (FERPA) and Health Insurance Portability and Accountability Act (HIPAA), as a floor to push for local and statewide policies that increase the amount and types of information that is considered “personally identifiable information” to more fully protect individuals’ private data from being shared.
- For educational institutions, prohibit campus security or police from collaborating with federal immigration authorities.
- Provide multilingual resources and information for people who engage with these institutions (students and their families, patients, litigants, and witnesses).

EXAMPLES

- **California.** *SB 54* requires the state attorney general to publish policies that limit, to the fullest extent possible, assistance with immigration enforcement by staff of public schools, public libraries, health facilities, and courthouses, among others.³³ Examples include:
 - California attorney general’s *model policy for hospitals* developed pursuant to *SB 54*.³⁴
 - California attorney general’s *model policies for instructing courthouse staff* on responding to ICE’s presence and requests by ICE for nonpublic information.³⁵
- **Oregon.** In August 2017, Oregon enacted *HB 3464*,³⁶ which requires the state attorney general to publish model policies that limit, to the fullest extent possible consistent with state and federal law, immigration enforcement at public schools, public health facilities, courthouses, public shelters, and other public facilities operated by a public body.
- **Washington.** The 2019 *Keep Washington Working* law addresses a number of ways the state can limit its connection to immigration enforcement.³⁷ It requires the state attorney general to publish policies limiting immigration enforcement to the fullest extent possible at public schools, state and local health facilities, courthouses, and shelters. And it encourages

³³ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB54.

³⁴ <https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/healthcare-guidance.pdf>.

³⁵ <https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/court.pdf>.

³⁶ <https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/HB3464>.

³⁷ <https://app.leg.wa.gov/billssummary?BillNumber=5497&Year=2019&Initiative=false>.

other entities offering physical or mental health and wellness, education, or access to justice to adopt protective policies.

Policy: Government-funded deportation defense/universal representation programs

- Make available state funds for deportation defense programs.
- Make available local (city and/or county) funds for deportation defense programs, some of which have funding from private partnerships. Various models exist, with most focused on immigrants in detention.

EXAMPLES

- **Illinois.** The [Access to Justice](#) statewide program provides \$10 million in funding to mitigate the consequences of incarceration and family separation in vulnerable communities, including legal representation support for immigrants facing deportation.³⁸
- **Atlanta, Georgia.** The Atlanta City Council [approved \[clicking on this link will cause a PDF to download to your computer\]](#) \$150,000 in 2017 to support deportation defense and other legal services for low-income immigrant residents.³⁹ The Vera Institute provided additional funding for a total of \$250,000.
- **Denver, Colorado.** The [Denver Immigrant Legal Services Fund](#) launched in 2018 and provided \$385,000 to service providers to assist with removal defense and other immigration services.⁴⁰

³⁸ <https://chicago.suntimes.com/2020/1/24/21080470/illinois-criminal-justice-immigration-access-to-justice-resurrection-project-westside-justice-center>.

³⁹ <http://atlantacityga.iqm2.com/Citizens/FileOpen.aspx?Type=30&ID=202939&MeetingID=2597> [clicking on this link will cause a PDF to download to your computer].

⁴⁰ <http://www.denverfoundation.org/Portals/0/Uploads/Documents/PRESS%20RELEASE%20Legal%20Services%20Fund.pdf>.