



State and Local Immigrants'  
Rights Developments,  
December 2019–August 2020  
**Investing in Collective Health and Well-Being**



Founded in 1979, the National Immigration Law Center is the leading advocacy organization in the United States exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their loved ones. NILC's mission is grounded in the belief that everyone living in the U.S. — regardless of race, gender/gender identity, immigration, and economic status — should have equal access to justice, resources, and educational and economic opportunities that enable them to achieve their full human potential. NILC is committed to advancing its mission — which intersects race, immigration status, and class — through a racial, economic, and gender justice and equity orientation. NILC seeks to achieve just laws and policies that address systemic inequities, create narrative and culture change for an inclusive and equitable society, and build a healthier and more powerful movement.

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September 2020

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# ACKNOWLEDGMENTS

The principal authors of this report are Tanya Broder, Isobel Mohyeddin, and Shiu-Ming Cheer.

The authors also thank the following National Immigration Law Center staff for reviewing and providing helpful suggestions for the report: Hayley Burgess, Jessie Hahn, Kevin Herrera, Gabrielle Lessard, Ignacia Rodriguez, and Jackie Vimo.

Richard Irwin edited, designed, and formatted the report.

The authors and the National Immigration Law Center also thank all the advocates, activists, and policymakers whose work in the states and in myriad towns, cities, and counties made this report possible.

# State and Local Immigrants' Rights Developments, December 2019–August 2020

## Investing in Collective Health and Well-Being

The COVID-19 pandemic's disproportionate impact on immigrants and on Black, Indigenous, and low-income communities of color has forced the United States to confront longstanding disparities in access to care and economic support, as well as the harmful effects of policing and carceral systems. Rather than addressing these issues, the federal administration's policies have thwarted efforts to protect public health, leaving states and localities to fend for themselves.

State and local governments increasingly recognize that they cannot protect public health and well-being without ensuring that all residents have access to care and support. In 2020, states continued to adopt policies improving access to health care, driver's licenses, higher education, and professional licenses for immigrants; protecting the rights of workers and tenants; promoting access to the courts; and limiting local entanglement in federal immigration enforcement efforts. States and localities also are seeking to fill gaps left by federal COVID-19 relief legislation — by offering access to care, rental assistance, tax credits, or economic support. In response to years of organizing and global protests, local governments are exploring how to shift resources from life-threatening and discriminatory carceral and policing strategies to investments in health care, education, and economic opportunities that allow communities to thrive.

This report highlights the immigrant-inclusive state laws and policies adopted from December 2019 through August 2020, including state and local efforts to provide relief to immigrant residents harmed by the COVID crisis and measures that limit their involvement in federal immigration enforcement and detention. For details on the immigrant-inclusive policies adopted in 2018 and 2019, see [\*\*"Immigrants' Rights Gain Ground in the States: 2018-2019"\*\*](#) (NILC). For a summary of initial efforts to address the pandemic's effects on immigrant communities, see [\*\*"Shared Crisis Share Solutions: State and Local Advocacy for an Immigrant-Inclusive Response to the COVID-19 Crisis"\*\*](#) (NILC).

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## Immigrant-Inclusive State Laws and Policies Enacted December 2019 to August 2020

State legislative sessions were derailed by the COVID-19 crisis, with some adjourning early, either postponing sessions or reconvening later in special sessions. Budget projections were revised dramatically due to the pandemic's economic effects. Despite these shortfalls, the urgent needs and growing calls for racial justice have compelled states to explore deeper investments in public health and in opportunities for Black, Indigenous, and low-income communities of color, including immigrant communities.

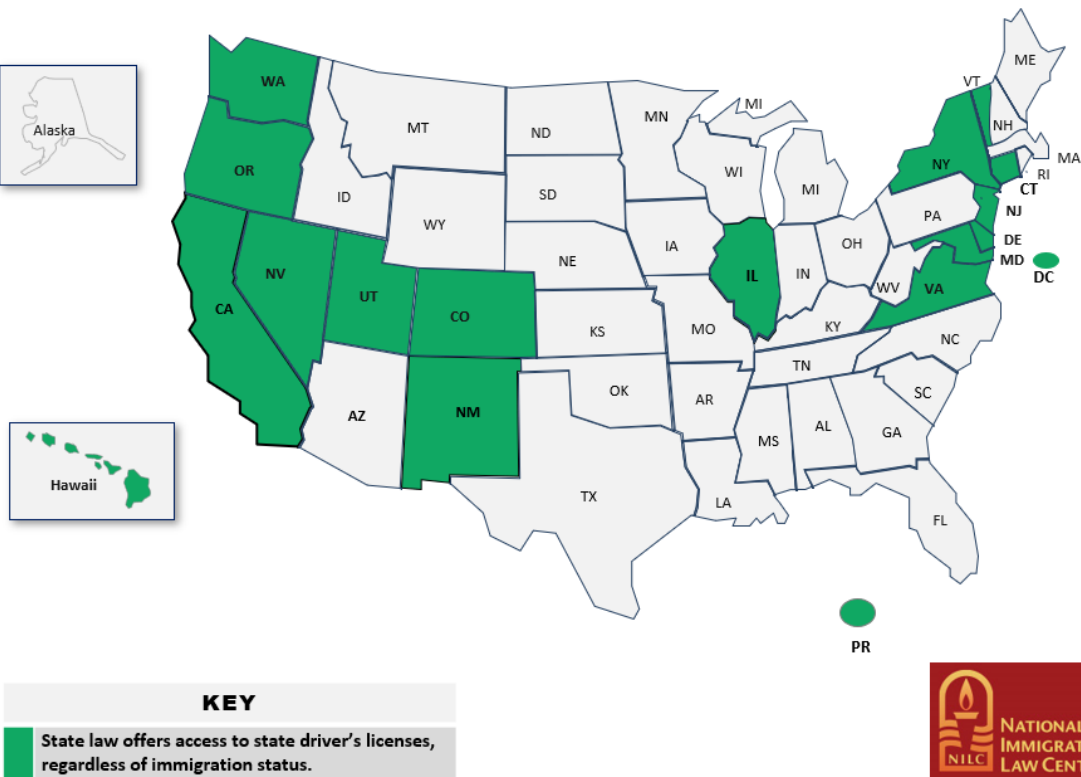
Although anti-sanctuary or immigration enforcement measures were introduced in at least 20 states, few advanced and *none has passed this year*. At the end of June, however, **Florida's** governor signed **SB 664**, an E-Verify bill that had been narrowed considerably before passage. (E-Verify is the federal government's internet-based employment eligibility verification program.) Ultimately, the law did little to alter the standards set forth in a preexisting executive order, which required public employers and contractors to use E-Verify. By contrast, **California, Colorado, Virginia, and Washington** enacted *multiple* pro-immigrant measures, while **Connecticut, Illinois, Maryland, New Jersey, New Mexico, Oregon, Utah, Vermont, and West Virginia** also have adopted immigrant-inclusive laws or policies since December 2019. Virginia's 2019 elections, which resulted in a political realignment of its legislature, led to quick passage of long-sought measures.

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## Expanding Access to Driver's Licenses

Two state laws expanding access to driver's licenses for immigrants will become effective on January 1, 2021. Culminating years of organizing, **New Jersey's** governor signed **A 4743** on December 19, 2019. And **Virginia's** **HB 1211/SB 34** was enacted on April 22, 2020, making Virginia the sixteenth state (in addition to the District of Columbia and Puerto Rico) to make driver's licenses available to residents regardless of their immigration status. *Fifty-six percent of the nation's foreign-born residents now live in a state that offers driver's licenses to undocumented immigrants.* For details on these laws, see "**States Providing Access to Driver's Licenses or Cards Regardless of Status**" (NILC).





The COVID-19 pandemic has exposed the consequences of failing to ensure that all members of our communities have access to health care. Federal legislation allocated some funds to reimburse health care providers for COVID-19 testing and treatment and created a state option to cover testing for certain uninsured people under Medicaid — but did not alter the immigration restrictions in that program. See “[Update on Access to Health Care for Immigrants and Their Families](#)” (NILC). Several states, including **California, Colorado, Connecticut, Delaware, Illinois, Maine, Massachusetts, Michigan, New York, Oregon, Pennsylvania, and Washington**, clarified that COVID-19 testing and treatment is covered under emergency Medicaid and therefore is available to otherwise-

eligible individuals regardless of their immigration status. In addition, at least three states expanded access to health coverage this year.

- **Illinois** became the first state to offer medical coverage to undocumented seniors. **HB 357** expands access to coverage for seniors 65 and older who earn less than 100 percent of the federal poverty level. Coverage should become available in December, retroactive to September 1, 2020.
- **Colorado** enacted an innovative law, the Health Insurance Affordability Act (**SB 215**), that will expand access to insurance for individuals excluded from other coverage options. Starting in 2023 the new law will help people earning up to 300 percent of the federal poverty level buy private health coverage if they don't qualify to get coverage under the federal Affordable Care Act (ACA) or other public programs. Beginning in 2022, a separate subsidy program will make health insurance more affordable for Coloradans who





receive tax credits under the ACA. Colorado's new law continues a "reinsurance" program that reduces premiums for all consumers by covering some of insurers' high cost claims. The provisions are funded without a state budget impact, by assessing fees on insurers and hospitals.

- **Washington's SB 5164** extends eligibility for Temporary Assistance for Needy Families (TANF) and nutrition and medical assistance to asylum applicants and to survivors of trafficking and other serious crimes.

Proposals to expand access to coverage in some other states were postponed or set aside due to the unforeseen budget constraints precipitated by COVID-19. For example, although the **California** governor's initial budget proposed to offer Medi-Cal to undocumented seniors, the enacted budget declares only that coverage for this group will be *prioritized* in upcoming budgets if certain conditions exist. In **Virginia**, the governor's initial budget would have eliminated a restriction for immigrants in the state's Medicaid program (which requires, e.g., that to be eligible lawful permanent residents must have credit for 40 quarters of work history). But the governor removed this provision from the budget bill signed in May.

For more details, see "**Medical Assistance Programs for Immigrants in Various States**" (NILC).

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## Economic and Rental Assistance During the Pandemic

As pandemic-related unemployment has skyrocketed and people struggle to remain housed, states, localities, and private donors have been scrambling to fill in gaps left by federal COVID-19 relief legislation. Programs have included short-term disaster assistance payments; rental, utility or mortgage assistance; and tax credits. Although states, localities, businesses, and private donors raised or allocated millions of dollars, the need for assistance has been overwhelming and much of the funding was depleted almost instantly. Advocates are now exploring medium to longer-term solutions, including new strategies for raising revenue to support wage replacement programs for workers who are ineligible for unemployment insurance. As the Fiscal Policy Institute explains, this will require a "government-scale" investment. "**Unemployment Relief: Including All of New York's Workers**" (Fiscal Policy Institute). To support these efforts, state fiscal groups in **Massachusetts, New Jersey, New Mexico, New York, Oregon, Virginia, Washington**, and **Wisconsin** produced reports highlighting immigrants' contributions to local economies, employers' contributions to unemployment

insurance funds on their behalf, and policy recommendations for addressing the needs of immigrants at risk.

Below are some of the states that have used a combination of federal, state, and private funds to offer cash or rental assistance to people who are ineligible for the benefits available under federal COVID-19 relief legislation.

- **Alabama** offered limited emergency assistance for residents who are ineligible for unemployment or federal stimulus payments, to help with food, rent, or other needs. **Community groups bolstered** this assistance.
- **California's Disaster Relief Assistance for Immigrants (DRAI)** program allocated \$75 million in state funds for one-time payments of \$500 per worker or up to \$1,000 per household. The assistance, distributed through local nonprofit organizations, was expected to reach about 150,000 undocumented adults. Philanthropists also pledged to raise a target of \$50 million in **private donations**. In July 2020, a legislative working group released an **economic stimulus plan** that includes a proposal to fill gaps in unemployment insurance, including lack of coverage for undocumented workers, shortfalls if the federal government does not extend the \$600/week payment, and other holes that remain. California's legislature passed **AB 826**, which, if funds are appropriated, would provide \$600 in one-time emergency food assistance for people who are eligible for DRAI, immigrant legal services, or the federal emergency food assistance program. The measure has been sent to the governor.
- An **executive order** issued by **Colorado's** governor allocates \$10 million to the Colorado Department of Local Affairs (DOLA) for expenditures incurred to respond to second-order effects of the COVID-19 emergency, specifically for emergency rental and mortgage assistance to low-to-moderate-income individuals, as well as additional direct assistance, if appropriate, for people who have been economically affected by COVID-19, with preference given to people who are ineligible for other forms of assistance such as unemployment insurance, food benefits, or direct federal stimulus payments. The governor has been working with private donors to raise funds for disaster relief, including a \$3 million **COVID-19 relief** program available to affected residents.
- **Connecticut** allocated \$2.5 million in state funding to provide **rental assistance** to people who are ineligible for similar aid under the federal COVID-19 relief legislation. The Connecticut Department of Housing will administer this program, which is currently in development. The philanthropic organization **4-CT**, which was created to provide emergency assistance to state residents during the pandemic, will make \$1 million available to Connecticut families who are excluded from existing federal relief programs.





- In response to concerted **advocacy by a broad coalition**, a **budget amendment** approved by the **District of Columbia** Council and signed by the mayor would redirect \$9 million of local revenue to programs addressing homelessness, mental health services, and benefits for residents excluded from unemployment insurance or other government assistance programs. The funds would assist undocumented workers, returning citizens, day laborers, sex workers, street vendors, hair braiders, and others working in the informal economy. The measure adds to the **\$5 million** previously invested in a fund administered by Events DC.
- **Illinois** initially allocated \$2 million in state funds for a one-time \$1,000 payment via a **public/private partnership**; the funding was depleted almost immediately. In May, the state legislature approved a budget that allocates \$65 million for immigrant services, much of which is anticipated to be used for cash assistance for people who are ineligible for other forms of relief. The

budget also appropriates nearly \$500 million for rental assistance (to help U.S. citizens and immigrants) and health care for seniors that will be available regardless of immigration status.

- **Massachusetts** allocated \$5 million toward rental and utility assistance for the **COVID19 Residential Assistance for Families in Transition (RAFT)** program. The FY20 supplemental budget designates another \$20 million for rental assistance paid directly to landlords, as well as \$10 million to community foundations that partner with nonprofit organizations, targeting those serving populations with high levels of poverty or public health impact, a large portion of residents with limited English proficiency, and gateway communities. The legislature is seeking private funds to match this allocation. See, e.g., the **Massachusetts COVID-19 Relief Fund**.
- **New Jersey's** governor announced a **short-term rental assistance program** to help low and middle-income households that experienced a substantial loss of income because of the pandemic. This program will cover three months of rent, with an option to reapply for three additional months of assistance if needed. The program does not impose restrictions based on immigration status. The **New Jersey Pandemic Relief Fund**, a private effort founded by the governor's spouse, is providing **\$4.5 million** in cash assistance to vulnerable communities, including undocumented immigrants.
- **Oregon's Worker Relief Fund** seeks to replace up to 60 percent of lost wages for Oregonians who, due to their or a family member's immigration status, are disqualified from receiving unemployment insurance or stimulus benefits. The legislature initially allocated \$10 million to complement private funds raised. An additional \$10 million will be dedicated to this program. Another \$10 million will support a **Farmworker Quarantine Fund** for workers who lack access to sick leave. The fund will assist agricultural workers who are recovering from COVID-19 and will be managed by a coalition of community-based organizations.
- **Washington** invoked its preexisting **Disaster Cash Assistance Program**, which provides one month of assistance in a 12-month period to Washington families and people without children who meet the income and resource rules and who are not eligible for other cash programs. The state is providing **\$100 million in rental assistance** through local housing providers, which will be available regardless of immigration status. The state also established a \$3 million fund for food production workers who need to quarantine while ill. In response to concerted **advocacy**, Governor Inslee is **establishing a Washington Worker Relief Fund**, with an initial **\$40 million installment**. Administered by community-based organizations, the fund will provide emergency economic assistance to undocumented Washingtonians to address their needs under the pandemic. The governor committed to work with legislative leadership to create a longer-term wage replacement program



for workers, including undocumented immigrants, who are excluded from unemployment insurance.

Cities and counties, including **Alameda County, Austin, Baltimore, Boston, Chicago, Denver, Fort Bend County, Houston, Los Angeles, Louisville, Minneapolis, Montgomery County, New Orleans, New York City, Philadelphia, San Antonio, Santa Clara County, and Tulsa**, have established similar programs, using some combination of local, private, and federal funds.

Advocates in these and other states are pressing for programs that are better equipped to meet the ongoing needs of individuals and families. In a digital day of action, Make the Road New York **produced a video** urging Governor Cuomo to pass a tax on billionaires to fund relief for workers who are ineligible for other assistance. A **New York Times article** similarly highlighted the disparities in resources: While undocumented workers struggle, the wealth of New York's 119 billionaires grew by an *additional* \$77 billion between March and June alone. See also "**The Billionaire Mark-to-Market Tax: \$5.5 Billion or More for the NYS Budget**" (Fiscal Policy Institute).

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## State Earned Income Tax Credits

Two states expanded access to their earned income tax credit (EITC) this year. **Colorado's HB 1420** increases the amount of the state EITC and extends the credit to residents who use an Individual Taxpayer Identification Number (ITIN). **California's AB 93** makes the state EITC and young child tax credit available to people who file their income tax returns using an ITIN and who have at least one child under age six. More recently, California's legislature passed **AB 1876**, which would extend access to the state EITC and child tax credit to all ITIN-filers. The measure is now on the governor's desk. Similar campaigns are ongoing in **Maryland, Massachusetts, New Jersey, New Mexico, Oregon, Washington**, and other states.

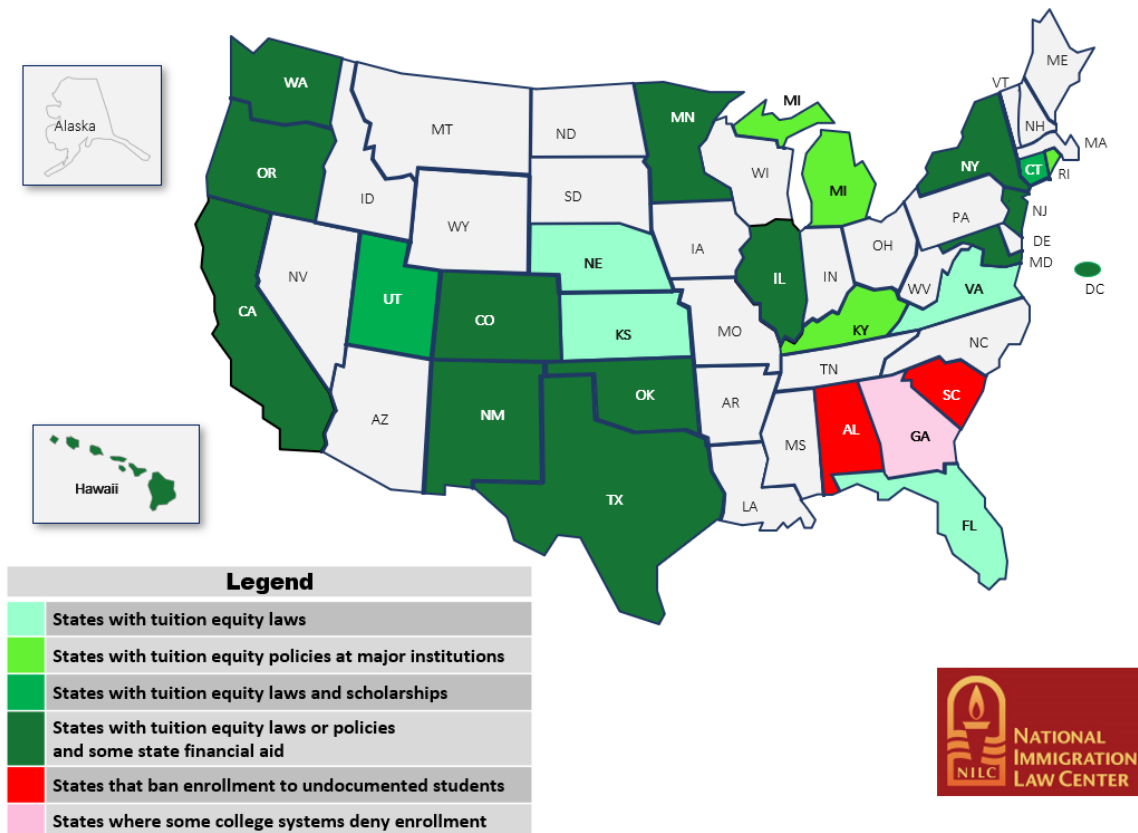
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## Improving Access to Higher Education

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated funding to higher education institutions to address pandemic-related disruptions in campus operations and to support academic communities, including by providing emergency financial assistance to their students. The U.S.



## Current State Laws & Policies on Access to Higher Education for Immigrants | April 2020



Department of Education initially confirmed that this assistance was not federal financial aid and could be made available to all students at the discretion of the universities. The agency later sought to exclude students who are ineligible for federal financial aid or other programs restricted by the 1996 federal welfare law. Challenges to these restrictions have been filed in California, Washington, and Massachusetts. One U.S. district court preliminarily blocked these restrictions for students attending California's community colleges; another U.S. district court preliminarily blocked them from applying to students attending higher education institutions in Massachusetts. Litigation is ongoing.

During the first six months of 2020, several states improved access to higher education for immigrant students. In April, **Virginia** enacted a tuition equity law, **HB 1547/SB 935**, extending access to in-state tuition to students who meet certain criteria, regardless of their immigration status. The state also adopted laws clarifying that students cannot be deemed ineligible to establish domicile for tuition purposes based solely on the immigration status of their parents

(**HB 1315**) and enabling newly arriving refugees and Afghan or Iraqi special immigrant visa-holders to qualify for in-state tuition rates (**HB 1179**). Other state expansions of access to higher education include:

- **Maryland**'s legislature overrode the governor's veto of a law extending the state's tuition equity law to four-year colleges and universities. **HB 262/SB 537** became law on January 30, 2020.
- **Washington**'s **SB 6561** established a state-funded student loan program for undocumented students.
- **New Jersey**'s **S 700** ensures that otherwise-eligible students have access to grants and scholarships regardless of their parent's immigration status.
- **California**'s budget allocates \$5.8 million to fund Dreamer Resource Liaisons and student support services for immigrant students in community colleges. It redirects local funds to provide emergency student financial aid to students eligible for the state's tuition equity policies at the three public college and university systems and, to cover these costs, suspends a Dreamer Service Incentive Grant Program for the next two fiscal years.

With Virginia's new law, at least 21 states have tuition equity laws or policies in place, offering access to in-state tuition rates for students who meet certain criteria, regardless of their immigration status. And at least 15 states offer access to scholarships, institutional aid, or state financial aid for these students. *Over 80 percent of foreign-born residents now live in a state with a tuition equity law or policy in place.* See "**Laws and Policies Improving Access to Higher Education for Immigrants**" (NILC).

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## Expanding Access to Professional Licenses and Entrepreneurial Opportunities

Policies on access to professional and occupational licenses for immigrants vary by state and often from agency to agency. During the past several years, proposals to expand access to licenses for otherwise-eligible professionals have gained ground. This year, **New Mexico** enacted **SB 137**, making occupational and professional licenses available to eligible state residents regardless of their immigration status. On September 1, 2020, **New Jersey**'s governor signed a similar measure, which had passed with bipartisan support. **S 2455** clarifies that lawful presence is not required to obtain a professional or occupational license. **West Virginia**'s **SB 623** provides that individuals with valid employment authorization documents can qualify for a teaching certificate.

California's budget invests \$10 million in a new initiative, Social Entrepreneurs for Economic Development (SEED), to provide entrepreneurial training and microgrants that support individuals in launching or maintaining small businesses. The program aims to serve economically disadvantaged groups that face significant barriers to employment, including people with limited English proficiency as well as people who are not citizens or lawful permanent residents of the U.S.

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## Civil Rights and Other Protections for Tenants, Workers, and Consumers

As detailed above, many states and localities have allocated funds, coordinated with private philanthropy, or dedicated federal funding to offer short-term assistance with rent, utilities, or mortgage payments. In addition, **Colorado** enacted a law protecting the rights of immigrant tenants. **SB 224** limits the collection and disclosure of information about a tenant's immigration status and prohibits threats, demands, intimidation, harassment, or retaliation for exercising rights or interfering with rights. It also prohibits refusing to rent to individuals based on their immigration status. **Washington's S 5165** amends various civil rights, housing, education, labor, employment, insurance, credit, and other laws to prohibit discrimination based on immigration or citizenship status unless differential treatment is required by federal or state law.

Several states enacted workers' rights measures this year. On April 12, **Virginia's** governor **signed over 20 new laws** to support workers, including legislation to combat worker misclassification and wage theft, ban workplace discrimination, and prohibit noncompete covenants for low-wage workers. **Colorado's** Healthy Families and Workplaces Act (**SB 205**) requires employers to offer sick leave through December 31, 2020, and prohibits retaliation based on a worker's immigration status. **Washington's HB 1888** requires notice to state employees if a request for personal information has been made about them, as well as other privacy protections for public agency workers.

**Virginia** was the first state to enact mandatory workplace safety rules under the COVID-19 pandemic. On July 17, Governor Northam adopted **statewide emergency workplace safety standards** and regulations, to control and prevent the spread of COVID-19. These new standards require all employers to mandate social distancing measures and face-coverings for employees in customer-facing positions and when social distancing is not possible, provide frequent access to handwashing or hand sanitizer, and regularly clean high-contact surfaces. In addition, new standards require all employees to be notified within 24 hours if a



coworker tests positive for the virus. Employees who are known or suspected to be positive for COVID-19 may not return to work for 10 days or until they receive two consecutive negative tests. On March 30, **Oregon's** Governor Brown **pledged** to enforce health and safety standards and to conduct workplace inspections after over 1,200 coronavirus-related complaints were filed there. As of August 5, Oregon OSHA had conducted **5,000 spot checks** of businesses. Similarly, the **Oregon Liquor Control Commission** had inspected over 3,600 alcohol-serving restaurants, bars, and other establishments for compliance with COVID-19 guidelines.

**California's** legislature passed a first-of-its kind relief package, including the Agricultural Workplace Health and Safety Act (**AB 2043**). This bill ensures enforcement of COVID-19 guidance by Cal/OSHA; funds a targeted bilingual outreach campaign to educate agricultural workers on Cal/OSHA guidance, COVID-19-related paid sick leave, and workers compensation benefits; and directs Cal/OSHA to track and report workplace investigations related to the agricultural industry. California also passed **SB 1257**, which eliminates the



historical exclusion of “household domestic workers” from state occupational health and safety standards. Both bills are headed to the governor.

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## Workers’ Compensation

The COVID-19 pandemic highlighted the need for robust workers’ compensation policies and reforms. These programs, which generally are available regardless of a worker’s immigration status, provide medical treatment, wage replacement benefits, as well as financial compensation in the event of a work-related death. So far, 14 states have taken action to extend their policies to include COVID-19 as a work-related illness. For example:

- **Washington** amended its **workers’ compensation coverage** in March to include quarantined health care professionals and first responders working to address the pandemic. The policy provides benefits to workers while in physician-ordered quarantine after being exposed to COVID-19 at work.
- **California Executive Order N-62-20** mandates that if an employee is not teleworking exclusively and contracts a COVID-19-related illness, it is presumed to be a work-related disease and is therefore eligible for workers’ compensation benefits.
- **Wyoming’s SB 1002** amends the state’s workers’ compensation program to cover all workers who contract COVID-19.
- Effective June 5, 2020, **Illinois’s HB 2455** provides that all essential workers who contract COVID-19 are presumed to have an employment-related illness. Similar policies are currently pending in seven other states: **California, Colorado, Michigan, New Jersey, North Carolina, Ohio, and Rhode Island.**

For more information, see the National Conference of State Legislatures’ **workers’ compensation tracker**.

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## Worker Safety Reforms

So far, **California, Illinois, Kentucky, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Virginia,** and **Washington** have adopted comprehensive worker-safety measures to protect against COVID-19. These policies include mandatory safety standards and



return-to-work guidance, testing mandates for workers, and industry-specific guidance. For more detailed information, see the National Employment Law Program’s “**Which States and Cities Have Adopted Comprehensive COVID-19 Worker Protections?**”

States and localities also protected workers from retaliation for asserting their rights to a safe workplace. On May 13, **Minnesota**’s Governor Walz issued an **emergency executive order** that protects workers from retaliation or discrimination for refusing to work in unsafe conditions or for raising work-related health and safety concerns. And **Philadelphia** adopted a **citywide ordinance** that protects workers from retaliation for refusing to work in unsafe conditions or for expressing COVID-19–related health and safety concerns.

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## Universal Representation

Universal representation is a crucial line of defense in the effort to keep communities and families together. The right to a government-funded attorney is not afforded to people facing deportation proceedings. Without government-funded legal counsel, 70 percent of immigrants in detention who must go to court do so without legal representation. Given that the criminal justice and immigration systems are increasingly intertwined, universal representation can



help to safeguard due process, enhance procedural justice, and promote racial equity. In the context of recent protests condemning mass incarceration and police brutality, as well as of the ongoing COVID-19 crisis in immigrant detention centers, deeper investments in community support systems such as universal representation programs are more urgent now than ever. The growing movement for universal representation calls for every individual who is facing removal proceedings to be provided publicly funded legal counsel.

Several states and localities have allocated funding for projects and initiatives that specifically provide representation in immigration-related cases, including deportation hearings.

- **California's final budget allocates \$65 million** for immigration legal services, including deportation defense, naturalization, counsel for unaccompanied minors, and other immigration-related legal services.
- **Illinois's** statewide Access to Justice Grants Program **provides \$10 million** to mitigate the consequences of incarceration and family separation in vulnerable communities, including support for undocumented individuals.
- **New York's** Liberty Defense Project **provided** \$11.5 million in 2019 and \$10 million in 2020 for direct representation in deportation hearings and other cases.
- **Oregon's budget** for 2019-21 allocated \$2 million for deportation defense.

Similarly, localities invested in legal representation of immigrants. For example:

- **District of Columbia** Mayor Bowser **announced** \$2.5 million in funds for the Immigrant Justice Legal Services grant program. The funds will support a variety of programs, including know-your-rights briefings and workshops, legal representation in deportation hearings, legal assistance for family reunification efforts, and culturally competent language access services.
- In February, **Prince George's County, Maryland**, **provided** \$300,000 to fund a two-year Access to Counsel Initiative, which will provide representation to county residents detained in immigration custody.
- **Harris County, Texas**, **approved** a resolution to create an immigration legal services fund to assist people facing deportation. (Funding is pending as of this report's publication date.)
- In July, **Los Angeles County** approved a **one-year extension** of the L.A. Justice Fund.

## Protecting Access to Courts, Limiting Entanglement, and Protecting Privacy

Activists and advocates continue to call for the termination or limiting of the relationship between state and local law enforcement and federal immigration enforcement agencies. States and localities also have taken steps to protect immigrants' access to the courts, e.g., by preventing U.S. Immigration and Customs Enforcement (ICE) from conducting civil arrests in or near courthouses. Below are examples of state and local policies limiting



entanglement, including restrictions on law enforcement inquiries about immigration status, information-sharing between agencies, and access to state and local policing resources by federal immigration officers.

In 2020, several states passed laws protecting access to courts by prohibiting civil arrests (including by ICE) in or near courthouses:

- **Colorado's HB 83** prohibits civil arrests while a person is present at a courthouse or while going to, attending, or coming from a court proceeding.

- **Washington's HB 2567** limits the collection and disclosure of information by courts or prosecutors. It also requires state and federal law enforcement agents to check in with court security and state their purpose, and the bill prohibits civil arrests in courts.
- **New York's** legislature passed the Protect Our Courts Act (**S425/A2176**), which provides legal protection from civil arrests for immigrants in, or traveling to and from, courthouses. The legislature is reconciling differences in the two versions of the bill.

**Virginia** passed several laws and policies limiting ties between local police and immigration enforcement and protecting the privacy of people encountering law enforcement. Signed March 11, **HB 262** prohibits law enforcement from inquiring about the immigration status of survivors or witnesses. Nearly one month later, the governor signed **HB 1150/SB 491**, removing a requirement that jail, corrections, probation, and parole officers ask about immigration status. The law also removes a requirement that courts submit information about certain immigrants to the U.S. Department of Homeland Security. Effective May 6, **Fairfax County General Police Order 604** prohibits **Fairfax County** police from assisting ICE except in criminal investigations. The order prevents ICE agents from gaining access to county police facilities and allows individuals stopped by police to provide identification other than a Virginia driver's license.

Voces de la Frontera and ally groups in **Wisconsin** secured a big victory in December 2019 when the Milwaukee Police Department (MPD) adopted, in its updated Standard Operating Procedures, a strong policy to disentangle from ICE. The policy prohibits MPD from asking about the citizenship of people whom it books, requires ICE to present a judicial warrant as a condition for the MPD responding to an ICE request, and sets time limits for processing U visa certification requests (for survivors of crime). Voces and ally organizations engaged in a variety of tactics, meeting with committee members, submitting proposed revisions to the former policy, and mobilizing supporters to attend public hearings. They highlighted the story of the De La Cruz children, whose father was arrested in a joint ICE/MPD action as he prepared to take them to school.

The U.S. Supreme Court declined to review the federal government's challenge to **California's** Values Act, which had been upheld by the Ninth Circuit Court of Appeals. This bolstered confidence for other jurisdictions to move similar legislation. The **District of Columbia's** Sanctuary Values Temporary Amendment Act (**B23-064**) became effective in February 2020. The act limits DC's entanglement with federal immigration agencies, including a prohibition on compliance with ICE detainer requests in the absence of a judicial warrant or order. Due to COVID-19 and ongoing litigation regarding unsafe conditions in detention centers, the **Los Angeles County** sheriff placed what was originally a

**temporary moratorium** on transfers to ICE of people in its custody. The sheriff first issued the moratorium on April 24, 2020, and **made it permanent** on August 18, 2020. On September 1, the L.A. County Board of Supervisors **approved a motion** to place a permanent moratorium on ICE transfers.

California's legislature recently passed the California Racial Justice Act (**AB 2542**), which prohibits criminal convictions or sentences based on race, ethnicity, or national origin; allows habeas petitions based on violations of this provision; permits defendants to request disclosure of evidence related to such violations; and requires courts to order disclosure upon a showing of good cause. The bill is heading to the governor.

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## Protecting the Privacy of Workers, Drivers, and Consumers

Some states adopted measures to protect the privacy of workers, drivers, and consumers this year.

- **California's AB 2788**, which prohibits utility companies from sharing information with immigration authorities in the absence of a court-ordered judicial subpoena or warrant, has passed both houses of the legislature and is heading to the governor.
- After the I Drive Coalition in **Colorado** pushed for strong data privacy protections, the governor issued **Data Privacy Guidance**. The instructions for executive and state agencies limits inquiries and collection of information about immigration status and sets standards for disclosing personal information to third parties and the federal government.
- **Maryland's HB 1202** prohibits employers from using facial recognition technology during an interview without consent.
- **Washington's SB 6280** establishes procedures and limits on the use of facial recognition technology (outside of the driver's license context). Another law enacted in Washington, **HB 1888**, requires notice to state agency employees if a request is made for personal information about them, and it includes other privacy protections for public agency workers.



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## Divesting from Mass Incarceration and Policing

Advocates and organizers have pushed for policies that reverse the damage and growth of the prison industrial complex and move toward a world without cages. The recent uprising in support of Black Lives Matter and against police killings, and the public health crisis caused by the COVID-19 pandemic have increased the sense of urgency on these issues. Global protests have created more space to advocate for *divesting* from mass incarceration and policing and, instead, for *investing* in housing, health care, support for reentry, and other critically needed services.

Driven by Black-led organizing, states and localities have made progress in recent months to divest from policing or enact other policing reforms. For example:

- Two school districts in **California** took steps toward divesting from a school police force. On June 30, the **Los Angeles** Unified School District board approved an **immediate cut of \$25 million** in funding to its school police force — the equivalent of 35 percent of the school police budget. On June 24, Oakland’s school board voted unanimously to pass the **George Floyd Resolution to Eliminate the Oakland School Police Department**, which would dismantle the school district’s police department.
- The school board in **Madison, Wisconsin**, **voted unanimously** to end the contract that keeps police in Madison’s schools. On July 22, 2020, the Madison City Council voted to remove police officers from schools.
- Earlier this year, the city of **Cambridge, Massachusetts**, **adopted a policy** encouraging the police to issue summonses to individuals for driving without a license rather than arresting them.

Several local policies have used a divest/invest framework, redirecting funding from police departments to community programs and services. In some cases, initial commitments were **scaled back** in response to political or logistical challenges, suggesting that meaningful change will take more time and effort.

- Following the killing of George Floyd on May 25, the **Minneapolis** City Council **approved a proposal** to dissolve the Minneapolis Police Department and replace it with a Department of Community Safety and Violence Prevention. The city’s charter commission, however, voted to delay consideration of the proposal for **90 days**, effectively preventing it from appearing on the November ballot.



- The **Seattle** City Council **pledged to cut** the police department's budget by 50 percent. The **final budget package**, however, cut the department by \$3 million, less than 1 percent of its \$400 million annual budget.
- In **Cook County, Illinois**, the County Board of Commissioners passed the **Justice for Black Lives Resolution** on July 30. The resolution calls for funding to be redirected from policing and incarceration to investments in community services such as housing, mental health, job creation, public transit, and restorative justice, especially in communities most harmed by violence and incarceration.
- In Texas, the **Austin** City Council **voted** to reduce the Police Department budget by one-third, with an immediate cut of about \$21 million. **The proposal**, passed on August 13, eliminates funding from three planned police cadet classes, cuts 150 vacant officer positions, and moves funding from

civilian functions within the police department into other departments. Those funds will be reallocated and reinvested in community programs and services including violence prevention, family violence shelters and protections, nutrition programs, abortion access programs, and mental health services.

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## Limiting Detention and Monitoring Conditions

States and localities also took steps to monitor detention conditions and to limit new construction of detention centers.

- **Colorado's HB 1409** requires more frequent inspections of detention facilities that house non-U.S. citizens.
- **Washington's HB 2576/S 6442** establishes a department to evaluate and make recommendations about changes in statutes, rules, and policies necessary to conduct effective inspections, and about enforcement in private detention facilities to ensure the health, safety, and welfare of detainees.
- **Los Angeles** passed a **resolution** prohibiting construction or operation of private detention centers and community detention facilities for unaccompanied minors in the city.

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## Decarceral Policies

The prison-to-deportation pipeline has been well-documented, and this phenomenon **especially affects Black immigrants**. Since individuals who are detained or incarcerated live in poorly ventilated close quarters and without access to quality health care, jails, prisons, and immigrant detention centers are experiencing disturbing trends of COVID-19 infection rates. To address these and other harms, advocates are fighting to end mass incarceration and immigrant detention. Below are examples of steps taken towards decarceration, as advocates push for the release of more people from jails and prisons and an end to systems of supervision such as probation.

- **California** Governor Newsom issued **Executive Order N-36-20**, halting the transfer of individuals from county jails to state facilities and directing the Board of Parole to continue conducting all parole hearings via teleconference. On March 31, California granted early release to 3,500 incarcerated people,

followed by an **order on July 10** to release 8,000 people from state prisons to help curb the spread of COVID-19.

- On March 24, **Colorado** Governor Polis issued **Executive Order 2020-016**, temporarily suspending the Colorado Department of Corrections' duty to receive individuals and making it easier for certain individuals to qualify for parole and early release. The governor also issued **guidance** to law enforcement agencies and detention centers to limit the spread of COVID 19.
- On March 26, **Illinois** Governor Pritzker issued **Executive Order 2020-13**, ordering that "All admissions to the Illinois Department of Corrections from all Illinois county jails [be] suspended." The suspension was extended multiple times and is set to expire on August 22, per **Executive Order 2020-44**.
- On April 2, **Kentucky** Governor Beshear **commuted the sentences** of 186 incarcerated people, and planned to commute the sentences of another 743 people, all of whom are in state custody. As of July 3, 1,200 prisoners have been released from state custody since the pandemic began.
- On April 18, **Maryland** Governor Hogan signed an **executive order** allowing the accelerated release of people within four months of completing their sentence, prioritizing release for older people and encouraging consideration of release to home detention.
- On April 6, **New Mexico** Governor Lujan Grisham issued **Executive Order 2020-021**, commuting the sentences of individuals based on eligibility factors. As of July 11, 83 people have been released early under this order.

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## Conclusion

Despite the harms and omissions of federal policies, state and local governments have continued to invest in the health, dignity, and well-being of their residents. Even in abbreviated legislative sessions, states improved access to higher education, professional licenses, driver's licenses, and health care for immigrants this year. States and localities dedicated funds to legal representation as well as economic and housing assistance for immigrant residents and took steps to protect consumer privacy and access to the courts. They strengthened policies limiting local entanglement in immigration enforcement and reduced the number of people in detention, jails, and prisons.

COVID-19 exposed and exacerbated longstanding racial disparities in access to care, support, and opportunities. Effective organizing has advanced the conversations about the need to shift resources from dangerous policing and carceral practices to critical investments in Black and Indigenous communities,

other communities of color, and low-income communities. As the pandemic has made painfully clear, a healthy community and workforce are essential to our survival as a country and to our chances of recovering from these public health and economic crises.