

WHAT THE SUPREME COURT RULING ON SB 1070 MEANS FOR CHILDREN AND FAMILIES



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In April 2010, Arizona passed SB 1070, the first state law aimed at enforcing immigration laws in an effort to reduce the undocumented immigrant population. A federal district court enjoined the law one day before its implementation, and a final appeal reached the U.S. Supreme Court. Since the passage of SB 1070, five other states have passed similar immigration laws, including Alabama, Georgia, Indiana, South Carolina, and Utah.

THE U.S. SUPREME COURT DECISION

On June 25, 2012 the U.S. Supreme Court struck down three of four provisions of SB 1070 based on the grounds that federal law preempts state law. Specifically, the Court struck down the following:

- Section 3, which made it a criminal offense not to carry an alien registration document.
- Section 5(C), which made it a state misdemeanor criminal offense for an undocumented alien “to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor.”
- Section 6, which provided local law enforcement officers authority to arrest, without a warrant, any individual the officer had “probable cause” to believe was removable from the U.S.

The Court also temporarily upheld Section 2(B), the provision that would allow local law enforcement officers to determine the immigration status of individuals that are stopped, detained, or arrested if there is a “reasonable suspicion” that the individual is unlawfully present. However, the ruling also determined that while Section 2(B) is not preempted, “constitutional concerns” may arise after the law’s implementation that may warrant review in the future.

IMPACT ON KIDS, FAMILIES, AND COMMUNITIES

The U.S. Supreme Court ruling on SB 1070 largely represents a victory on behalf of children and families by confirming that the authority to enforce immigration laws rests with the U.S. government. However, it is clear that Section 2(B), also known as the “Papers Please” provision, will result in a climate of fear among the immigrant community and lead to racial profiling. The following are specific concerns impacting children and families:

Reduced Mobility

The fear that police officers may engage in racial profiling may cause parents to fear driving their children to school or doctor appointments, as well as avoid other everyday activities such as going to the grocery store or taking their children to the park.

Mistrust of Law Enforcement

Immigrants will be less likely to report crimes or otherwise reach out to law enforcement officials due to fear of being questioned about their immigration status. As a result, domestic violence victims will no longer report their abusers, subjecting them and their children to prolonged abuse.

Family Separation

Approximately 5.5 million children, 80 percent of whom are U.S. citizens, currently live in mixed-legal status families with at least one undocumented parentⁱ. Increased arrests of undocumented immigrants for minor offenses, such as traffic violations, has resulted in the deportation of tens of thousands of parentsⁱⁱ. Section 2(B) threatens to tear more families apart, forcing children to live in fear of losing a parent or sibling at any moment and putting children at risk of unnecessarily entering the child welfare system.

Social Disruption and Emotional Trauma

Studies have shown that immigration laws like SB 1070 often result in emotional trauma and stress-related health problems for children and youthsⁱⁱⁱ. The loss of a parent or the fear of losing a parent negatively impacts academic performance, sleeping habits, and social behavior. Similarly, children who are immigrants themselves or have immigrant parents often feel stigmatized and may be subject to teasing or bullying.

PROMOTING FAMILY UNITY AND CHILD WELL-BEING

The SB 1070 ruling should serve as warning to other states considering similar legislation. Rather than compromise the basic human rights and dignity of immigrants, states should focus on strategies that will help promote the integration of immigrant families so that they can fully contribute to the local economy and community. State policies should also aim to build a healthy and nurturing environment for every single child, regardless of immigration status.

Notes

ⁱ Passel, J., & Cohn, D., Pew Hispanic Center (February 2011). “Unauthorized Immigrant Population: National and State Trends, 2010.”

ⁱⁱ Department of Homeland Security (March 2012). “Deportation of Parents of U.S.-Born Citizens.”

ⁱⁱⁱ Lopez, T. University of Arizona (September 2011). “Left Back: The Impact of SB 1070 on Arizona’s Youth.”