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Carlos Navarro

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## **U.S. Government Files Lawsuit to Stop Alabama from Enacting Anti-Immigrant Law**

*by Carlos Navarro*

*Category/Department: Immigration*

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The US Department of Justice (DOJ) has filed a lawsuit to stop the state of Alabama from enacting House Bill 56 (HB56), a measure that imposes tough new rules against undocumented immigrants. This is the second suit filed by President Barack Obama's administration seeking to block an immigration-related initiative enacted by a state government. The federal government has argued that the Constitution prohibits state and local governments from creating a national "patchwork" of immigration policies.

In 2011, the DOJ filed a similar challenge to Arizona's controversial SB1070. A federal judge temporarily blocked key parts of that law, including a provision that would have required police to determine suspects' immigration status ([SourceMex, April 28, 2010](#)) and ([July 21, 2010](#)).

The DOJ lawsuit against HB56 was filed in the US Federal Court in Alabama's Northern District, presided by Judge Sharon Lovelace Blackburn. The measure, which was scheduled to take effect on Sept. 1, 2011 ([SourceMex, June 22, 2011](#)), would require police to attempt to determine the residency status of suspected undocumented immigrants. Police would be required to verify the immigration status of people they stop whom they suspect may be in the US illegally.

The Alabama initiative also prohibits immigrants from working or soliciting work. To enforce this measure, the state is requiring businesses to use E-Verify, a federal database, to determine whether job applicants are eligible to work.

The measure also prohibits landlords from renting a home or an apartment to undocumented immigrants. Anyone transporting undocumented immigrants would be subject to criminal sanctions.

Furthermore, undocumented immigrants would be barred from receiving state or local public benefits and would not be allowed to enroll in public colleges.

Arizona and Alabama are among dozens of states that have recently implemented or are thinking of implementing measures that target undocumented immigrants. The number of states taking action on immigration has increased significantly in the past five years. In a recent report, the National Conference of State Legislatures (NCSL) said almost 250 immigration-related initiatives were enacted in 40 US states during the first half of 2011 compared with only 38 in all of 2005. Some of the initiatives are more far-reaching than others, but Alabama's is by far the strictest.

"States are reacting to the federal government's inefficiency, and they're trying to figure out how to deal with it—good, bad, and ugly," Wendy Sefsaf, communications director at the American Immigration Council told Reuters. "Immigration impacts every policy issue there is, and people are trying to figure out how to manage it, for better or for worse, because the federal government won't."

## *Two other suits filed against Alabama law*

Just as it did with the Arizona challenge, the Mexican government joined in supporting legal action against the Alabama law. Mexico and 15 other Latin American countries—Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, and Uruguay—filed a brief in US courts challenging the law. A brief is mostly symbolic and carries no legal weight, but it offers these countries the opportunity to publically support the DOJ's action.

There are two other legal challenges in addition to the federal government's action, both also filed in Alabama's Northern District.

One of those suits was filed by a coalition of immigrant- and human rights groups and labor unions, including the American Civil Liberties Union (ACLU), the National Council of La Raza (NCLR), the National Association for the Advancement of Colored People (NAACP), the Montgomery Improvement Association (MIA), Legal Momentum, and the National Education Association (NEA).

"We applaud the US government for coming in and filing this new lawsuit," said Cecillia Wang, director of the ACLU's Immigrants' Rights Project. "We are confident that this law is going to be enjoined just as the Arizona law was enjoined."

The other suit was filed by leaders of the Episcopal, United Methodist, and Roman Catholic churches in Alabama. The church leaders, who represent 338,000 Alabama residents, argued that provisions in the law that punish those who provide any assistance to undocumented immigrants are tantamount to restrictions on the free exercise of religion. "If enforced, Alabama's Anti-Immigration Law will make it a crime to follow God's command to be Good Samaritans," said the lawsuit.

Supporters of the law, however, have vowed to fight the three lawsuits, which have been consolidated into one case. Alabama Gov. Robert Bentley has asked Judge Lovelace to refer to the state's highest court the question of how two provisions of its newly passed immigration law must be interpreted in light of a state constitution's protection of religious freedom. "A proper construction from the Supreme Court of Alabama may moot the entire litigation," the state said in its filing.

## *Arizona asks Supreme Court to reverse ruling from lower court*

The state of Arizona has also taken steps to try to reverse a ruling by a US District Court to strip key provisions out of Arizona's SB1070. In mid-August, Arizona Gov. Jan Brewer's administration filed a long-awaited petition asking the US Supreme Court to overturn the District Court ruling. This is four months after Brewer announced her intention to bring the matter before the high court.

The Arizona government's petition argues that illegal immigration imposes a hardship on the state, noting that the nation's "broken system leaves the people and government of Arizona to bear a disproportionate share of the burden of a national problem."

"In taking the case directly to the Supreme Court—as opposed to seeking a full, "en banc" review by the entire 9th Circuit Court—Brewer and Arizona Attorney General Tom Horne hope to have a speedier resolution to the controversy surrounding the law and questions about its constitutionality," said newspaper.

"I am hopeful the US Supreme Court will choose to take this case and issue much-needed clarity for states, such as Arizona, that are grappling with the significant human and financial costs of illegal immigration," Brewer said in a statement.

said the timing of the lawsuit is important politically. If the Supreme Court agrees to take the Arizona case, justices would hear arguments in the winter and likely hand down a ruling in the late spring as the US presidential race gets under way.

### *Report suggests reduced influx of undocumented immigrants*

The actions by the state governments come despite an apparent slowdown in the influx of undocumented immigrants entering the country. In a report published in mid-August, the Office of Immigration Statistics (OIS) said arrests of undocumented immigrants has declined steadily between 2005 and 2010 because of the US economic slowdown, which has reduced job opportunities in the US, and tighter enforcement at the US-Mexico border. The OIS, which comes under the jurisdiction of the US Department of Homeland Security (DHS), said the Border Patrol detained 463,382 unauthorized immigrants in 2010, the lowest number since 1972. In comparison, authorities detained 1.18 million undocumented immigrants in 2005. The record was set in 1986, when authorities detained 1.69 million immigrants. "This was before the approval of comprehensive immigration reform, which allowed the legalization of several million undocumented immigrants and established sanctions for businesses that offered employment to persons without official documents," said the report.

The increased arrests coincided with a rise in the number of deportations. The US government deported nearly 393,000 people in the fiscal year that ended Sept. 30, 2010, compared with 291,000 in 2007, 369,000 in 2008, and 390,000 in 2009.

Roughly half of those deported had been detained for criminal offenses. "Of those, 27,635 had been arrested for drunken driving, more than double the 10,851 deported after drunken driving arrests in 2008," said the Associated Press, citing data from the Immigration and Customs Enforcement (ICE) agency.

The OIS acknowledged that the figures on detentions and deportations do not provide conclusive proof that the influx of undocumented immigrants has declined but do offer a reliable indicator of trends.

The agency said roughly 404,365 of those detained in 2010 were Mexican nationals, about 87% of the total. In comparison, 503,379 Mexican nationals were detained in 2009. In 2005, the total was 1.23 million.

The trends coincide with a recent study by the Washington-based Pew Hispanic Center, which showed that the migration of Mexicans to the US has declined by 60% during the past decade.

After Mexico, the largest number of undocumented immigrants who were detained came from Guatemala, El Salvador, Honduras, Ecuador, China, Brazil, Cuba, and Canada.

And even though the influx of migrants is declining and deportations are increasing, remittances appear to have stabilized and increased slightly. The Banco de México (central bank) reported remittances sent by expatriates, primarily from the US, to Mexico amounted to US\$11.16 billion in January-June 2011. This compares with US\$10.65 billion in the same six-month period in 2010.

Earlier this year, analysts projected remittances for all of 2011 at US\$22.5 billion, but that was before recent forecasts that the US economy would resume a slowdown because of the US debt crisis. Still, if remittances do reach the projected US\$22.5 billion, they would greatly surpass the total for 2010, which the Banco de México estimated at US\$21.27 billion. That amount was slightly higher than the total of US\$21.18 billion reported in 2009.

Some analysts see little chance that remittances will return to the record levels reported in 2007, when Mexican expatriates sent US\$26 billion back home. Tapen Sinha, professor of risk management at the Instituto Tecnológico Autónomo de México (ITAM), said the boom in remittances in 2007 was attributed primarily to a healthy construction sector, which employed about 2.22 million Mexican workers. In 2011, the number dropped to 1.49 million. "Florida has seen a large drop in the Mexican migrant population for that reason," Sinha told the Inter-American Dialogue's .

Sinha said anti-immigrant laws in many US states, particularly Arizona and Georgia, are contributing to a decline in the number of undocumented migrants within their borders, which has contributed to keeping a cap on remittances.

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