



Immigrant Policy Project

August 6, 2012

2012 Immigration-Related Laws and Resolutions in the States

(January 1 – June 30, 2012)

Overview: In 2012, the introduction and enactment of immigration bills and resolutions in the states dropped markedly from previous years. Legislators found that state budget gaps and redistricting maps took priority, consuming much of the legislative schedule. Perhaps more significant, state lawmakers cited pending litigation on states' authority to enforce immigration laws as further reason to postpone action. This summer's U.S. Supreme Court ruling on *Arizona v. United States* upheld only one of the four state provisions challenged by the U.S. Department of Justice. That provision allows law enforcement officers to inquire about a person's immigration status during a lawful stop.

In 2011, five states enacted legislation similar to Arizona's: Alabama, Georgia, Indiana, South Carolina and Utah. The lower courts have either partially or wholly enjoined these statutes. Still pending in Arizona is a class action lawsuit to test additional constitutional questions not considered in *Arizona v. United States*. These include: the Fifth Amendment right to due process, First Amendment right to free speech and 14th Amendment right to equal protection. Also pending are complaints filed by the federal government against immigration enforcement laws enacted in 2011 in Alabama, South Carolina and Utah.

Report Highlights

State lawmakers in 46 states and the District of Columbia introduced 948 bills and resolutions related to immigrants and refugees from Jan. 1 to June 30, 2012. This is a 40-percent drop from the peak of 1,592 in the first half of 2011. (Legislatures in Montana, Nevada, North Dakota and Texas did not meet in regular session in 2012.)

In the first half of 2012, **41 state legislatures enacted 114 bills and adopted 92 resolutions** for a total of 206. This is a decrease of 20 percent from the 257 laws and resolutions enacted in the first half of 2011. As of June 30, 2012, two additional bills were vetoed by governors, and another 13 bills were awaiting governors' signatures—these bills are not included in this report of enacted laws.

Law enforcement and identification/driver's licenses remained top issues addressed by state legislatures, comprising 18 percent and 11 percent, respectively, of all enacted laws on immigration. States continued to pass budget and appropriations laws to fund items such as English as a Second Language, naturalization, and migrant and refugee programs. These laws made up about one-fourth of the laws passed in the first half of 2012.

E-Verify, the federal work authorization system, continued to be of interest. Six states—Alabama, Georgia, Louisiana, Michigan, New Hampshire and West Virginia—enacted legislation addressing employers’ use of E-Verify. Nineteen states now have an E-Verify requirement. Legislatures are also revising licensing requirements to include citizenship or legal immigration status.

Omnibus laws: As the nation awaited the U.S. Supreme Court ruling in *Arizona v. United States*, state omnibus immigration laws came to a standstill. Unlike 2011, when 30 state legislatures introduced more than 50 omnibus bills similar to Arizona’s, only five states—Kansas, Mississippi, Missouri, Rhode Island and West Virginia—did so this year, and none were enacted. Alabama was the only state to act on an omnibus bill in 2012, amending its 2011 law addressing law enforcement, business/public records transactions, driver’s license/IDs, employment/E-Verify, and harboring and transporting immigrants.

Law enforcement laws this year focused on sex offender registries and restraints on pregnant female inmates. Four states—Kansas, Louisiana, Maine and Utah—enacted laws that specified which documents are required for registering and maintaining records on sex offenders, including travel and immigration documents. Three states—Arizona, Florida and Louisiana—passed laws barring the use of restraints on pregnant female prisoners, including those held for violations of immigration law.

A few states—Alabama, Florida and Georgia—addressed increases in metal theft by tightening requirements on buying and selling secondary metals. In addition, Florida, Maine, Nebraska, Oklahoma, South Carolina and Utah passed laws to combat human trafficking by providing training to law enforcement, adding offenses under the definition of trafficking, and revising sentencing guidelines.

The full report of state laws is available online by state and by category. The brief summary below describes the categories and provides examples of laws enacted in the first half of 2012.

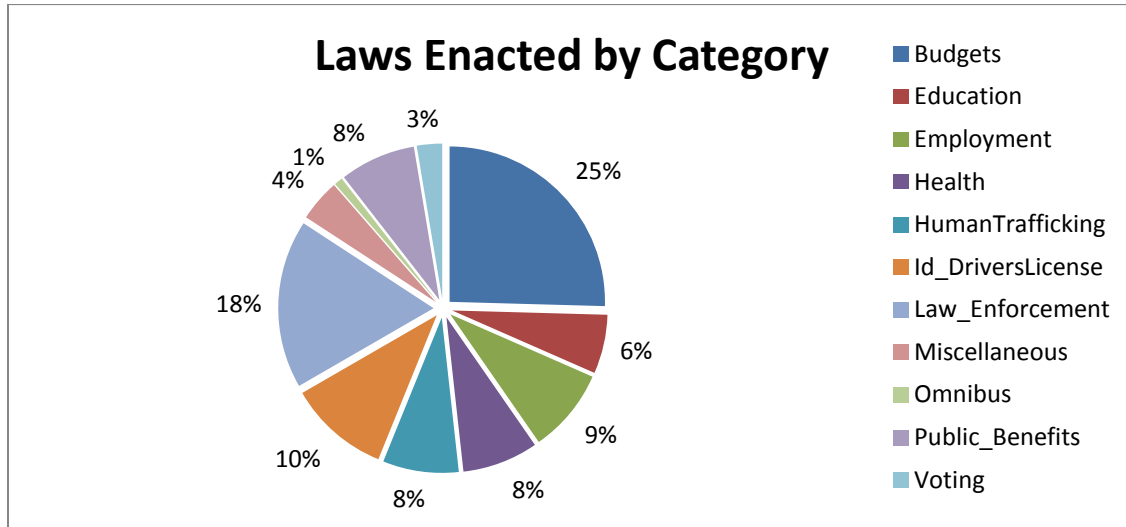
State legislation related to immigrants, 2005-2012

Year	Introduced	Passed Legislatures	Vetoed	Enacted	Resolutions	Total Laws & Resolutions
2005	300	45	6	39	0	39
2006	570	90	6	84	12	96
2007	1,562	252	12	240	50	290
2008	1,305	209	3	206	64	270
2009	1,500*	373	20	222	131	353
2010	1,400*	356	10	208	138	346
2011	1,607	318	15	197	109	306
2012**	948	208	2	114	92	206

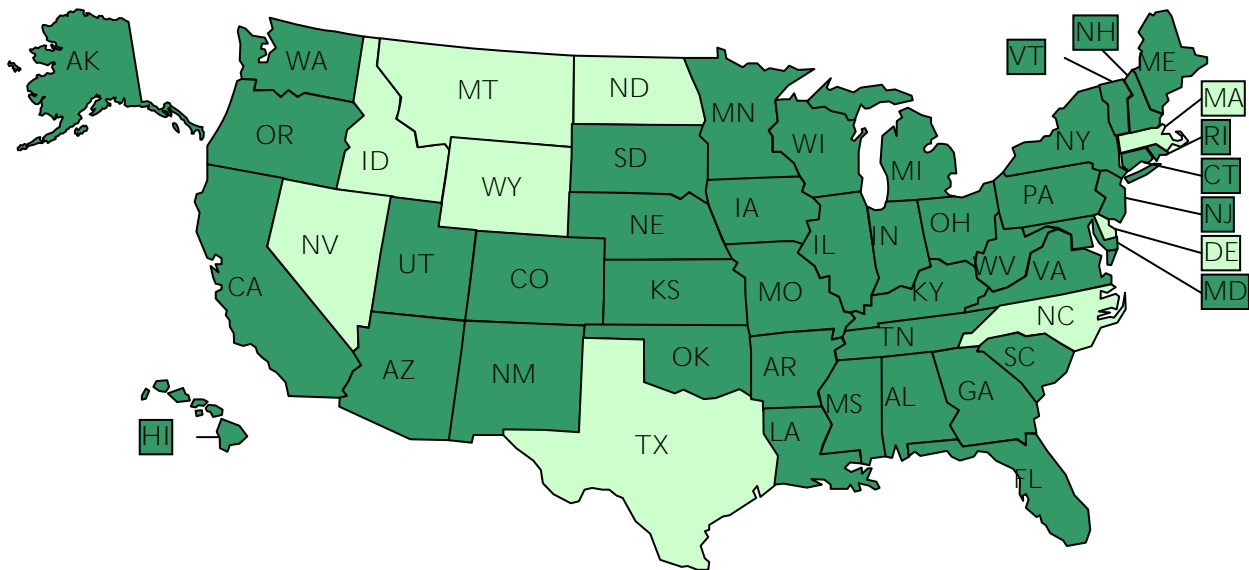
* 2009-2010 estimates

**As of June 30, 2012

Methodology: This report summarizes laws and resolutions enacted between Jan. 1 and June, 2012. Laws included in this overview address legal immigrants, migrant and seasonal workers, refugees or unauthorized immigrants. Terms used in this report by and large reflect those used in the state legislation. In some state legislative language, unauthorized immigrants are also described as “illegal immigrants” or “undocumented immigrants” or “aliens.”



IMMIGRATION-RELATED LAWS IN THE STATES



States that enacted immigration-related laws or adopted resolutions in the first half of 2012. ■ AL, AK, AZ, AR, CA, CO, CT, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, NE, NH, NJ, NM, NY, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WV, WI

States that have not enacted immigration-related laws or resolutions in the first half of 2012. ■ DE, ID, MA, MT, NV, NC, ND, TX, WY

Source: NCSL Immigrant Policy Project, July 2012

Laws and Resolutions Passed by Legislatures, 2010-2012

	January- June 2010	January- June 2010	January- June 2011	January- June 2011	January- June 2012	January- June 2012
Main Topics	Number of Laws Enacted	Number of States	Number of Laws Enacted	Number of States	Number of Laws Enacted	Number of States
Budgets	41	26	20	14	29	17
Education	13	10	13	9	7	7
Employment	27	20	22	15	10	9
Health	15	12	18	13	9	8
Human Trafficking	7	7	4	4	9	7
ID/Driver's Licenses and Other Licenses	23	16	23	15	12	9
Law Enforcement	33	17	42	19	20	13
Miscellaneous	22	16	11	8	5	4
Omnibus	2	1	6	5	1	1
Public Benefits	3	3	12	9	9	7
Voting	5	2	3	3	3	3
Total	191	43	174	40	114	46
Resolutions	128	26	95	24	92	30
Total laws and resolutions passed/adopted by state legislatures	319	44	269	40	208	46
Vetoed by governors	5	4	12	7	2	2
Total enacted laws and resolutions	314		257		206	

Please note: These figures reflect laws that have been enacted, but do not include those still pending a governor's signature.

Source: NCSL Immigrant Policy Project, July 2012.

The full report of state laws is available online by state and by category. The brief summary below describes the categories and provides examples of laws enacted in the first half of 2012.

Budget (29 enacted)

Lawmakers in 17 state legislatures enacted 29 laws: *Arkansas, Arizona, California, Colorado, Georgia, Kansas, Michigan, Missouri, Mississippi, New York, Ohio, Oklahoma, Pennsylvania, Utah, Vermont, Virginia and Washington.*

These laws typically appropriate funds for refugee services; migrant health, education and housing programs; law enforcement; English as a Second Language; or naturalization services.

Example: Mississippi S 2968. This law prohibits correctional facilities from spending funds appropriated by this law after Sept. 1, 2012 until the Commissioner of Corrections submits an application to the U.S. Secretary of Homeland Security to participate in the Criminal Alien Program to identify criminal aliens who are incarcerated in state correctional facilities and ensure their deportation.

Example: Vermont H 558. This law creates an EB-5 special fund for the operation of a regional center for immigrant investment. EB-5 visas are issued to immigrant investors who invest a minimum \$500,000 in a new commercial enterprise that creates or preserves at least 10 full-time jobs for qualifying U.S. workers.

Education (7 enacted; 1 vetoed)

Seven states enacted six laws: *Colorado, Georgia, Kentucky, Montana, New Hampshire, Tennessee, and Utah.* One law was vetoed in *Florida.*

These laws pertain to citizenship, immigration and residency requirements for educational institutions, including charter schools, for employees or students. Some laws address enhanced learning for refugees, children of refugees, or limited English proficient students.

Example: Tennessee S 3345. This law states that a chartering authority may disapprove a charter school application if the school plans to staff positions utilizing H-1B or J-1 visa programs in excess of 3.5 percent of the total number of positions at any school location.

Employment (10 enacted; 1 vetoed)

Lawmakers in nine states enacted 10 laws: *Alabama, Georgia, Louisiana, Minnesota, New Hampshire, South Carolina, Vermont, Virginia, and West Virginia.* One law was vetoed in *Minnesota.*

These laws address tax credits, unemployment insurance, and the use of the federal E-Verify program for public and/or private sector employees and state penalties for employing unauthorized aliens. Four laws in this category address E-Verify: Georgia, Louisiana, New Hampshire, and West Virginia. (Budget laws in Georgia and Michigan and the omnibus law in Alabama also address E-Verify.)

Example: Vermont S 238. This law creates a study committee to review migrant worker access to identification cards with a report due Jan. 15, 2013.

Example: Virginia S 515. This law authorizes the Virginia Alcoholic Beverage Control Board to revoke liquor licenses if establishments are found to have a practice of employing unauthorized aliens.

Health (9 enacted)

Nine laws were enacted in eight states: *Alaska, California, Florida, Indiana, Maryland, Nebraska, Vermont and Virginia.*

These laws pertain to medical assistance for pregnant women and children (*Nebraska, Virginia, and Vermont*); requirements for state hospitals to cooperate in arranging for the deportation of admitted aliens; minimum housing standards for migrant farm workers; and efforts to address health disparities and hepatitis for vulnerable populations.

Example: Nebraska L 599. This law declares that unborn children do not have immigration statuses and thus are eligible for prenatal care services.

Example: Florida H 1263. This law protects migrant farm workers and labor camp occupants by stipulating a process for plan review of newly constructed or expanded structures, as well as standards for hygiene, minimum living space, lighting, and sewage removal, among other specifications.

Human Trafficking (9 enacted)

Seven states enacted nine bills: *Florida, Maine, Nebraska, Oklahoma, South Carolina, Utah, and Virginia.*

These laws change law enforcement and criminal justice responses to individuals and businesses involved in human trafficking, such as providing training for law enforcement officials and school staff, making it illegal to withhold travel documents to detain a victim, requiring certain businesses to post trafficking hotline information, redefining what constitutes a human trafficking offense and addressing sentencing guidelines. Laws include both domestic and foreign victims of trafficking.

Example: Nebraska L 1145. This law provides mandatory training to law enforcement officers, judges, prosecutors, public defenders, and others regarding issues in human trafficking and methods used in identifying victims of human trafficking who are U.S. citizens and foreign nationals.

Example: South Carolina H 3757. This law makes it a crime to destroy, withhold, or confiscate any type of identification document including a driver's license, passport, or immigration document in the attempt to detain a victim.

IDs /Driver's Licenses and other Licenses (12 enacted)

Nine states enacted 12 laws: *Alabama, Arizona, Florida, Georgia, Michigan, Oklahoma, South Dakota, Utah, and Vermont.*

These bills relate to acceptable documentation and eligibility requirements for state IDs and driver's licenses, professional licenses, and firearm and hunting/fishing licenses.

Example: Oklahoma H 2367. This law allows driver's licenses to be renewed by mail except for alien licenses, which have to be renewed in person and at least every four years.

Example: Utah H 395. This law makes it a crime to sell, transfer or dispose of a firearm to a Category I restricted person which includes illegal aliens.

Law Enforcement (20 enacted)

Twelve states and the District of Columbia enacted 20 laws: *Arizona, Connecticut, Florida, Iowa, Illinois, Indiana, Kansas, Louisiana, Maine, Oregon, Utah, and Virginia.*

These laws address a wide range of law enforcement areas, from firearm possession and domestic violence to drug manufacturing and trafficking. Laws in Arizona, Florida and Louisiana limit the use of restraints on female prisoners and detainees during labor and delivery. Four states – Kansas, Louisiana, Maine and Utah – enacted laws that specified permissible documents for registering and maintaining records on sex offenders, including travel and immigration documents. Iowa and Utah prohibit notary publics from acting as immigration consultants or lawyers. Finally, new laws in Arizona and Indiana prohibit vehicles being used to transport or conceal illegal aliens.

Example: Indiana S 262. This law classifies knowingly transporting or harboring an illegal alien for commercial or private financial gain as a Class A misdemeanor, or a Class D felony for more than nine people. Law enforcement must impound a vehicle used to commit this violation unless certain exceptions apply.

Example: Louisiana S 256. This law prohibits the use of restraints on pregnant prisoners, including those detained under immigration law, during labor or delivery, except in particular circumstances.

Example: Iowa S 2265. This law prohibits a notary public from acting as an immigration consultant or an expert on immigration matters or representing a person in a judicial or administrative proceeding relating to immigration to the United States, U.S. citizenship, or related matters.

Miscellaneous (5 enacted)

Four states enacted five laws: *Alabama, Arizona, Florida and Georgia.*

This category typically includes immigration-related issues that do not fit in other categories and are addressed infrequently, such as housing assistance, tax issues, and studies. This year, three of

the five laws involve requirements for secondary metal recyclers while laws in Arizona impose additional boating fees for nonresidents and restrict investments in Sudan and Iran within a public retirement portfolio.

Example: Arizona S 1115. This law requires that loans or investment contracts made by the Public Safety Personnel Retirement System do not involve investments in Sudan or Iran or otherwise provide support to terrorists or facilitate illegal immigration into the United States.

Omnibus (1 enacted)

Alabama was the only state to enact an omnibus law, passed as an amendment to an existing 2011 law.

Omnibus bills include multiple topics in one bill such as immigration law enforcement, employment verification, education, human trafficking, and verification of lawful status for public benefits.

Alabama H 658. This law amends a number of provisions in the 2011 omnibus legislation, HB 56. HB 658 addresses law enforcement, business/public records transactions, driver's license/IDs, employment/E-Verify, and harbor/transport/rental agreements. *Law Enforcement:* HB658 eliminated the 2011 provision that allowed a citizen to bring legal action regarding immigration enforcement. Instead, a petition must be filed with the local district attorney or attorney general. *Business/public records transactions:* HB658 amends the 2011 provision that made it a felony for an alien not lawfully present to enter into business transactions with government. Business transaction is redefined as public records transaction and includes applying for or renewing a motor vehicle license plate, a driver's license or nondriver identification card, a business, commercial, or professional license. It does not apply to a marriage license or housing. *Driver's license/IDs:* Driver's licenses or IDs shall distinguish between lawful permanent residents and temporary immigrants. A person arrested for driving without a license will not be convicted if he or she produces a valid license in court or the office of the arresting officer. For those arrested for driving without a license, officers must make a reasonable effort to determine citizenship or lawful permanent residents with the federal government as soon as possible, but not later than within 48 hours. *Employment/E-Verify:* Contractors and subcontractors must participate in the E-Verify system; however, prime contractors are not liable for their subcontractor complying with E-Verify unless they know of the violation. *Harboring/Transport/Rental Agreements:* deletes the provision defining harboring as a rental agreement with an illegal immigrant.

For a more comprehensive summary, please visit: <http://www.ncsl.org/issues-research/immig/omnibus-immigration-legislation.aspx>

Public Benefits (9 enacted)

Eight states enacted nine laws: *Alabama, California, Florida, Hawaii, Illinois, Minnesota, New Jersey, and Tennessee.*

These laws address social service programs that affect all people covered by the programs—immigrants and non-immigrants alike—and laws that ensure benefits are granted only to eligible immigrants. Some laws mandate verification of immigration status before receiving benefits or place additional requirements or criteria on eligibility while others clarify eligibility and services for children in the foster care and adoption system, as well as those who have aged out.

Example: Alabama S 280. This law establishes Karina's Law which allows the State Registrar to issue a Certificate of Foreign Birth without judicial proceedings if the parents submit acceptable documentation.

Example: Florida H 99. This law establishes goals for the treatment of sexually exploited children and addresses the need for special care and services. These include: counseling, health care, victims compensation, substance abuse treatment, educational opportunities, and a safe environment secure from traffickers. These services are to be offered regardless of their citizenship, residency, alien, or immigrant status.

Voting (3 enacted)

Three states enacted three laws: *Colorado, Kansas, and New Hampshire.*

These laws clarify documents valid to prove U.S. citizenship.

Example: Kansas S 129. This law requires U.S. citizenship to vote and outlines documents valid to prove citizenship in order to register to vote.

Resolutions (92 adopted)

Thirty states and the District of Columbia adopted 92 resolutions: *Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin, and West Virginia.*

Many of these resolutions commend citizens, immigrants and immigrant-serving organizations for their contributions. Twelve resolutions urge Congress or the President of the United States to take action, such as: allow states to administer their own H-2A guest worker programs; provide sufficient funds for the Coast Guard; support increases in border patrol to enforce immigration and drug laws and to facilitate trade; support participation of certain countries in the U.S. Department of State's Visa Waiver Program; support visa improvements for tourism; and enforce all immigration laws. Some propose study committees on immigration topics.

Example: Georgia SR 715. This resolution urges Congress to allow states to administer their own H-2A guest worker programs through the monitoring of the U.S. Department of Agriculture.

Example: Louisiana S 353. This resolution recognizes the month of March as Irish-American Heritage Month.



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Source: National Conference of State Legislatures, July 2012

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