



**National Day Laborer
Organizing Network**



March 24, 2016

Governor Douglas Ducey
1700 West Washington Street
Phoenix, Arizona 85007

Dear Governor Ducey:

We write to urge you to declare your opposition to S.B. 1377. This unprecedented bill would impose additional incarceration on certain criminal defendants based on a state-court finding that they have violated specific federal immigration laws. Arizona's earlier attempt to penalize violations covered by the same federal statutory scheme has already been held unconstitutional in litigation concerning Arizona's 2010 law, S.B. 1070. S.B. 1377 shares the same fatal flaws.

Moreover, enacting this legislation would send a clear signal that Arizona continues to adhere to the antiquated and discredited discriminatory approach that gave us S.B. 1070. The public message and understanding in Latino communities, including potential trading partners, would be that little has changed. As organizations that have successfully litigated and advocated against S.B. 1070, we urge you not to repeat the costly mistakes of Arizona's past by signing into law this unwise, unjust, and unconstitutional legislation.

Established precedent makes clear that S.B. 1377 would unconstitutionally intrude upon and conflict with exclusive federal authority, in violation of Art. VI, Par. 2 of the U.S. Constitution (the Supremacy Clause). Equally important, to the extent S.B. 1377 seeks to punish people more harshly as a result of their citizenship or nationality, it violates individuals' right to due process and equal protection under the law.

In addition to being unlawful, S.B. 1377 is also bad policy. At a time when the rest of the country is moving away from mass incarceration, S.B. 1377 would fill Arizona's prisons with individuals serving disproportionately long sentences. It would also prohibit the Department of Corrections from granting early release to these individuals under any circumstances. The maximization of state sentencing and time served based on commission of a federal immigration offense will override any of the many other considerations applicable to other individuals. The Arizona Department of Corrections estimates that this

legislation would, within the second year of implementation, cost the State a shocking \$15 million per year if implemented. Litigation over the statute would, of course, also be costly.

For years, Arizona has been embroiled in litigation to defend laws that aimed to exclude and punish immigrants—laws that, in large part, have been held unconstitutional by the courts and have soiled Arizona’s reputation nationally and internationally. S.B. 1377 repeats these mistakes of the past. We urge you to take Arizona on a new path and make clear your opposition to this law. This of course means vetoing the law if it is presented to you by the Legislature. However, we urge you to signal your opposition now so that the Legislature understands your intent and might focus the limited remaining time in this session on other matters.

If you have any questions or concerns, please contact Victoria Lopez at the ACLU of Arizona, 602-773-6011 or vlopez@acluaz.org.

Sincerely,

American Civil Liberties Union of Arizona (ACLU-AZ)

ACLU Immigrants’ Rights Project

Mexican American Legal Defense and Educational Fund (MALDEF)

National Day Laborer Organizing Network

National Immigration Law Center

National Immigration Project of the National Lawyers Guild