



Your Rights: What YOU Need To Know About SB 1070

On July 28, 2010, a new law called SB1070 is scheduled to go into effect. SB 1070 expands the authority of local police and sheriff's deputies to stop, question, and detain immigrants for violating federal immigration law. It makes it a state crime for immigrants to not carry their immigration papers or work here without permission. Finally, it prohibits transporting undocumented immigrants in your car if you know they are illegal and you are helping them stay here illegally. IF the law is implemented, it is important for every person to know how the law will change things in Arizona and what their rights are.

Why wouldn't the law get implemented?

We believe that SB 1070 goes against the U.S. Constitution and violates the civil rights and human rights of the people who will be subjected to it. Civil rights lawyers from the American Civil Liberties Union, the Mexican American Legal Defense and Education Fund, and the National Immigration Law Center will be filing a lawsuit before July 28 asking for the court to stop SB10170 from going into effect.

What does the new law say?

The law says that police should ask you about your immigration status if they think there is "reasonable suspicion" to believe you are undocumented in the course of enforcing any state, county, or municipal law. If they arrest you, they will try to determine your immigration status before you can be released. If they determine that you are undocumented, you will probably be transferred to Immigration and Customs Enforcement (ICE).

What is "reasonable suspicion"?

Reasonable suspicion is a legal term that tells officers when they should investigate any crime, and under SB 1070, your immigration status. The law requires that the officer first be investigating some other violation of the law. Then, if they can point to certain objective facts that lead them to believe you are undocumented, such as not having United States identification or evasive behavior, then they can demand to see your immigration papers. However, they cannot say they have reasonable suspicion simply because you refuse to answer questions, decline to consent to a search, or because of the color of your skin.

When can an officer ask me about my citizenship or immigration status?

An officer may ask you about your status on a traffic stop, on the street, or in your home, if they are enforcing some other state, county, or municipal law, such as a traffic offense, noise complaint or curfew violation. They should not ask you about your status if you have been the victim or a witness to a crime. However, you should always be prepared for the police to ask you about your status. If SB 1070 goes into effect, this may start to happen more often.

What types of identification may I be asked to show to prove I am legally in the U.S.?

Under the law, if you show certain forms of United States identification (such as an Arizona drivers' license or tribal identification card), the officer will be more likely to believe that you have permission to be in the country. At that point, you should not have to show any additional documentation of your status. If you do not have valid identification, it is important that you do not show the officer any false documents or documents from another country or tell the officer you are a U.S. citizen if it is not true. The government can use this information against you.

How should I respond if I am asked about my citizenship or immigration status?

The only information that you have to provide the officer with is your name. Other than that, you have the RIGHT TO REMAIN SILENT. It is usually better to not answer questions about where you were born, what country you are a citizen of, or how you entered the country. Without getting into an argument with the officer, you should decline to answer their questions and tell them you would like to speak to an attorney. You are allowed to say this even if you do not have an attorney.

The information provided here is not intended to serve as legal advice. Please consult with an attorney if you have specific questions about your situation.

SB 1070 allows government entities to maintain and share information about your immigration status with other government entities, including immigration officials.

Does this mean schools, libraries, and food stamps offices can ask me about my immigration status and report me to ICE?

Maybe. Some schools have police officers on campus that may begin to ask students about their immigration status after they break up a fight, for example. However, SB 1070 does not allow teachers or school administrators, libraries, or non-profit agencies to ask questions or report information about immigration status to law enforcement. Under a different Arizona law called HB 2008, benefits agencies like DES may ask you questions about immigration status if you are applying for benefits for yourself (except emergency medical care/shelter and WIC). However, they are not supposed to ask you questions about your own immigration status if you are only applying for your U.S. citizen or lawfully present children or other members of your household. If you tell them that you are undocumented, they may report you to ICE.

The law makes it a state crime for any person who is undocumented to not carry immigration papers.

If I have permission to be in the United States, what immigration papers am I required to carry?

If you are not a citizen of the United States but have permission to be here, and you are 18 years old or older, you are required to carry your original immigration papers (not a copy) at all times. Some examples of immigration papers are: a legal permanent resident card (I-551), a temporary resident card, an arrival-departure record (I-94), a work authorization document (I-766) or a border crossing card. Unfortunately, some people who are allowed to be here don't have any immigration papers they can carry—this is part of the reason why this law is so unfair.

The law makes it a crime to work in the United States without permission and for undocumented day laborers to solicit work on the sidewalk.

The law makes it a crime for any person who is already breaking a criminal law to ALSO “transport” or “harbor” any undocumented person if the person knows or is almost certain that the person they are transporting or harboring is undocumented. Any means of transportation used in connection with this crime will be impounded.

Can I be arrested if I am a U.S. citizen and am driving my undocumented husband to work?

Generally no. Unless you are already breaking a criminal law, such as drunk driving or driving on a suspended license, the police cannot charge you with unlawfully transporting or harboring, even if you know the person is undocumented. However, an officer might still question your passenger as to his or her immigration status. In that case, you and that person both have the RIGHT TO REMAIN SILENT.

Can I be arrested if I volunteer for my church and give rides or shelter to undocumented members of my congregation?

Generally no. First of all, you are probably not breaking a criminal law when you are giving rides or shelter to people. Second, in order to be charged with unlawfully transporting an undocumented person, you have to be helping them further their illegal presence in the United States. This does not include humanitarian assistance. Unless you are actively helping them hide from the law, you should not be at risk.

Can I be arrested if I am a teacher and frequently give rides to undocumented students for field trips, sports, or club events?

No. In a decision called Plyler v. Doe, the U.S. Supreme Court ruled that undocumented students have the right to a free public education. Under this decision, undocumented students also have the right to participate in activities that are part of the educational experience.

Remember – regardless of your immigration status, you still have rights when police stop, question, search or arrest you. If you feel your rights have been violated, please call Respect/Respeto at (877) 977-8869 or the American Civil Liberties Union of Arizona (ACLU-AZ) at (602) 650-1854 or <http://www.acluaz.org>.

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