



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration REPORT

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Arizona Bravely Defends SB 1070 Before the Supreme Court

Outcome Will Ricochet Around the Nation

The U.S. Supreme Court heard oral arguments on April 25 in a case involving Arizona's immigration enforcement law, known as SB 1070. SB 1070 was approved by the Arizona Legislature and signed into law by Gov. Jan Brewer in 2010 in response to the federal government's failure to effectively enforce immigration laws. Four provisions of SB 1070 have been blocked from taking effect by a federal district court and by the Ninth Circuit Court of Appeals.

Arizona appealed the Ninth Circuit's ruling to the Supreme Court and a decision is expected in June. The forthcoming Supreme Court decision will have far-reaching consequences, clarifying what steps state and local governments may take to deter illegal immigration.

U.S. Solicitor Gen-

eral Donald Verrilli, who argued on behalf of the Obama administration, urged the justices to declare SB 1070 unconstitutional because it conflicts with the federal government's exclusive authority over immigration. Verrilli contended that Arizona's enforcement efforts would interfere with the Obama administration's ability to set its own priorities for immigration enforcement. Attorney Paul Clement, representing the state of Arizona, countered that in enacting SB

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Dan Stein, president of FAIR, speaking to reporters outside the Supreme Court.



Remembering Edith Blodgett

FAIR's Board of Directors remembers with fondness, admiration, and gratitude Edith Blodgett of Grand Rapids, Michigan, who passed away at the age of 95 on April 3. Among her many philanthropic interests, Edith's concern about the impacts of a rapidly growing population on the natural environment led her to join FAIR early in the 1980s. She soon became a highly active member of our National Board of Advisors, and then served most productively on our Board of Directors from 2006 through 2009. While we deeply mourn Edith's passing, we celebrate her long, productive, enthusiastic, and joyous life. We are all the better for having known this most remarkable woman.

Reflections ON TWO FAIR FRIENDS

*from FAIR President
Dan Stein*

We lost a good friend this past month: **Edith Blodgett** of Grand Rapids, Michigan, a long-serving member of the FAIR board and a good friend to us all. Edith helped FAIR build its communications center in our Washington, D.C., headquarters.

No FAIR board meeting was ever complete unless Edith Blodgett was present. She added a light-hearted demeanor, but a very serious commitment to the cause of immigration reform. I remember meeting Edith for the first time in the late 1980s, on a border tour in San Diego. She said at that time, "...I just can't believe our government allows this to happen." She never wavered in her firm sense of right and wrong. She was such a good friend to my wife Sharon and myself. Always warm, thoughtful, kind and caring, she had a great commitment to the arts in general, and the Grand Rapids Symphony, in particular. While maintaining her great zest for life well into her 90s, she never stopped saying about our borders, "How can the government let this happen?" Edith left us with love, commitment, humor ... and one very good question.

Fred Iklé passed away in November 2011, having served for many years on FAIR's National Board of Advisors. I counted it a great honor to get to know him so personally and well. Fred was an Undersecretary of Defense for Policy in the Reagan Administration, and had a very strong sense of how immigration presented great challenges for the national future. Fred was a valuable source of ideas and inspiration; a firm believer in the idea that the only way to fight a bad idea was to have a better one. His last book, entitled *Annihilation from Within*, sought to take Americans into uncharted realms of thought, contemplating new possible threats to our national security. That's the way it always was with Fred Iklé, and why it was so memorable to have his involvement as a part of FAIR. FAIR...where the big thoughts are.

Immigration REPORT

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Congressional Republicans Working on a “Me Too” DREAM Act

Several leading congressional Republicans have signaled that they expect to introduce a Republican alternative to the Democrats’ DREAM Act amnesty bill. The effort is being led by Florida Senator Marco Rubio. Rubio has actively promoted the idea in the media despite the fact that neither he nor his Republican colleagues have introduced a bill, nor has he been willing to provide many details about what might be in a Republican DREAM Act.

In frequent media appearances, Rubio has indicated that the legislation he is preparing would allow illegal aliens who arrived in this country prior to age 16, and who meet certain other criteria, to remain here legally. Rubio repeatedly asserted that his version of the bill would not include a pathway to citizenship, adding cryptically that it

“wouldn’t in the future prohibit them from accessing the citizenship process.”

In addition to Rubio, two other GOP senators, Jon Kyl (Ariz.) and Kay Bailey Hutchison (Texas) — both of whom are retiring at the end of 2012 — are said to be working on their own versions of the DREAM Act. Rep. David Rivera (R-Fla.) has stated publicly that he plans to introduce similar legislation in the House.

The entire effort appears to be part of an attempt by Republicans to woo Latino voters. According to a mid-April poll by the Pew Research Center, the presumptive Republican nominee, Gov. Mitt Romney, trails President Obama among Latino 67 percent to 27 percent.

It is a strategy, however, that Rubio himself concedes

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Phase II of Obama Backdoor Amnesty Underway

The implementation phase of the Obama administration’s backdoor amnesty began late last year as the Immigration and Customs Enforcement (ICE) agency carried out

of Homeland Security (DHS) Secretary Janet Napolitano.

In late April and early May, ICE carried out the next phase of the rolling review process. All immigra-

York, San Francisco and Los Angeles.

Nearly 1,600 cases have been dismissed as a result of the reviews completed by mid-April, and roughly 11,000 additional deportation cases

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reviews of all pending deportation cases in Baltimore and Denver. Reviews in those two cities served as a pilot effort as ICE undertakes reviews of some 300,000 deportation cases nationwide with the objective of dismissing those the administration deems to be “low-priority” under guidelines issued by Department

of Homeland Security (DHS) Secretary Janet Napolitano. In late April and early May, ICE carried out the next phase of the rolling review process. All immigration court dockets were cleared in Detroit, Seattle, New Orleans and Orlando, while all ICE personnel in those cities were reassigned to review case files. An even bigger round of reviews is slated for late spring and summer. ICE announced that between mid-May and July, it would conduct reviews of cases in New

York, San Francisco and Los Angeles. Nearly 1,600 cases have been dismissed as a result of the reviews completed by mid-April, and roughly 11,000 additional deportation cases have been designated as eligible for closure. It is highly likely that those cases will eventually be dismissed as well. ICE Director John Morton has asserted that his agency has broad prosecutorial discretion not to carry out deportations against illegal aliens who have not been convicted of serious crimes in the United States.

Alabama Lawmakers Consider Weakening State's Immigration Enforcement Law

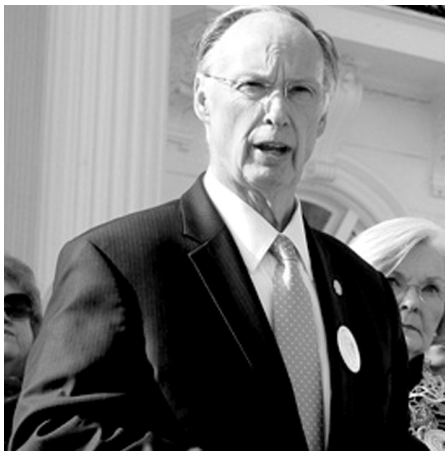
Bowing to pressure from business and illegal alien advocacy groups, the Alabama House of Representatives approved legislation that would roll back key provisions of the state's landmark immigration enforcement law, HB 56. The revised legislation, known as HB 658, was approved by a 64-34 vote. The Alabama Senate Judiciary Committee also gave its approval to HB 658. A vote by the full Senate was scheduled after the deadline for this newsletter.

The move by the Alabama House came just one week before the U.S. Supreme Court heard arguments regarding a similar law in Arizona. A ruling on the constitutionality of Arizona's SB 1070 is expected in June. That ruling will clarify what state and local governments may do with regard to enforcing federal immigration laws.

HB 56 was enacted in 2011 and is considered the most far-reaching state enforcement law. Unlike key provisions of Arizona's SB 1070, which were enjoined by the Ninth Circuit Court of Appeals, many of the provisions of HB 56 that HB 658 would weaken were allowed to take effect by the Eleventh Circuit Court. Nevertheless, State Rep. Mickey Hammon, the lead sponsor of HB 56, decided to move forward with HB 658, an 83-page bill that would make significant and substantive changes to the law that was enacted just last year.

Among the most important changes, HB 658 would significant-

ly limit the scope of HB 56's immigration status check provision. Currently, HB 56 requires a law enforcement officer during a lawful stop, detention, or arrest to conduct an immigration status check of individuals if the officer reasonably suspects the individual is illegally in the United States. HB 658, however, limits the requirement to conduct im-



THE REVISIONS PROPOSED UNDER HB 658 HAVE THE SUPPORT OF KEY ALABAMA OFFICIALS, INCLUDING GOV. ROBERT BENTLEY, WHO SIGNED HB 56 INTO LAW.

migration status checks only to situations in which an individual is arrested or issued a traffic ticket. It expressly allows for immigration status checks of the passengers in a car, if the driver has been arrested or issued a traffic ticket.

HB 56 included strong deterrents to the employment of illegal aliens by suspending the business licenses of employers who knowingly hire illegal

aliens for a first offense and revocation of a business license for subsequent offenses. Employers would still face a suspension of their business license for a first offense under HB 658, but the threat of revocation would become more difficult.

If a second violation were to occur within five years of the first, an employer is subject to a 120-day suspension and five years of probation. For a third violation within five years of the second, the employer is subject to permanent suspension (although the business license can be reinstated) and seven years of probation. In addition, HB 658 contains broad language that allows a court not to impose penalties on employers if it decides doing so is not in the public interest.

The revisions proposed under HB 658 have the support of key Alabama officials, including Gov. Robert Bentley, who signed HB 56 into law, and the Speaker of the State House, Mike Hubbard. Proponents of the legislation argue that, in spite of the extensive changes proposed in the bill, Alabama's immigration enforcement policy will not be weakened. "The essence of [HB 56] will not change," said Gov. Bentley. Speaker Hubbard's office claimed, unconvincingly, that HB 658 will improve upon HB 56, "making it stronger and making it more enforceable."

In reality, HB 56 was already enforceable. The law went into effect in

Cook County (Again) Refuses to Honor ICE Detainers

Cook County, Illinois, rejected a request to negotiate terms under which County jails would transfer custody of illegal aliens to Immigration and Customs Enforcement (ICE). Under a 2011 ordinance approved by the Cook County Board, County jails will continue to ignore requests by ICE to detain illegal aliens who have been arrested for other crimes, and will instead release them back into the community if they post bond.

Previously, Board President Toni Preckwinkle claimed that holding aliens until ICE could take custody of them imposed cost burdens and

other hardships on Cook County. In February, ICE Director John Morton sent a letter to Preckwinkle promising to address the County's concerns. In the letter, Morton stated that if Cook County were willing to transfer aliens in their custody to ICE, his agency would assume custody of them on the same day they were released from County jails and assume any detention costs incurred after the first 48 hours.

In April, Preckwinkle rejected ICE's offer, making it clear that the real issue was not the cost, but an ideological objection to helping ICE remove illegal aliens from the United

States. "[T]he primary intent of the County ordinance was not fiscal, rather it was passed to ensure that detainees in Cook County are granted fair and equitable access to justice, regardless of their immigration status," Preckwinkle wrote in response to Morton.

Preckwinkle reiterated this sentiment when speaking to the press. "The more I've gotten into it, the more offensive and unjust it seems to me to make distinctions between people based on their documentation," she told the Chicago Tribune. "Equal justice before the law is more important to me than the budgetary

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ICE Negotiating with Obama's Uncle About Whether He Can Stay

The U.S. Immigration and Customs Enforcement (ICE) agency has declined to take decisive steps to deport President Obama's uncle, Onyango Obama. Instead, as a result of negotiations with his attorney, ICE has ordered Onyango to check in regularly with immigration authorities while the agency decides whether to carry out a deportation order that was issued more than 20 years ago.

After defying a court order to leave the United States, Onyango came to the attention of ICE after he was arrested on a drunk driving charge last summer near Boston. At the time of his arrest, Onyango's blood alcohol level was nearly twice the legal limit.

In March, a Massachusetts court dropped the DUI charge against Onyango as part of a plea bargain. Under the agreement, Onyango surrendered his driver's license for a 45-day suspension. If Onyango manages to get

through the rest of this year without being arrested again, the court will expunge the drunk driving charge from his record.

But even that slap on the wrist will do little to inconvenience Onyango. The Massachusetts Registry of Motor Vehicles quickly granted him a "hardship waiver," allowing him to drive to and from his job managing a

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ARIZONA VS. U.S. *continued*

1070 Arizona was merely “borrow[ing] federal standards” in an effort to carry out laws that the Obama administration refuses to enforce.

The most important of the provisions before the Court is one that requires Arizona police to determine the immigration status of someone who has been lawfully stopped if the officer reasonably suspects that person is in the country illegally. On that key

law. Whether or not to enforce them is still entirely up to you,” he said.

In his questioning of Verrilli, the Chief Justice implied that the Obama administration’s objections to SB 1070 are driven more by politics than constitutional concerns. “It seems to me that the federal government just doesn’t want to know who is here illegally or not,” Roberts said. Roberts’ skepticism was echoed by Justice Anthony Kennedy, often the swing vote

migration status of someone he reasonably suspects is here illegally. Justice Sonia Sotomayor, an Obama appointee, openly chastised Verrilli for the weakness of his arguments. “You can see it’s not selling very well. Why don’t you try to come up with something else?” she suggested.

Justice Antonin Scalia, a Reagan appointee, took issue with Verrilli’s argument that Arizona’s law could complicate relations with foreign governments. “So we have to enforce our laws in a manner that will please Mexico?” he asked rhetorically.

Other provisions of SB 1070 to be decided by the Supreme Court include ones that make it a state violation for aliens not to carry their registration documents, even though federal law already requires them to do so. Another would make it a state misdemeanor for illegal aliens, who are barred from employment under federal law, to solicit work in public places. A third provision authorizes police to conduct a warrantless arrest of an individual if the officer has probable cause to believe the individual has committed a removable offense.

When it is handed down, the ruling will have implications beyond Arizona. Similar laws have already been approved in Alabama, Georgia, Indiana and South Carolina and a favorable ruling by the Supreme Court will likely result in more states adopting enforcement legislation.



Jack Martin, FAIR's Special Projects Director, addressing immigration reform activists in front of the Supreme Court.

issue, the eight justices who will be deciding the case (Justice Elena Kagan recused herself because of her previous role in the Obama administration) seemed highly skeptical of the administration’s arguments.

Chief Justice John Roberts flatly rejected the notion that SB 1070 infringes on federal authority over immigration. “It is not an effort to enforce federal law. It is an effort to let you know about violations of federal

on the Court, who asked incredulously, “You’re saying the government has a legitimate interest in not enforcing its laws?”

Even the more liberal justices appeared to be unimpressed with the Obama administration’s objections to having local police identify illegal aliens. Justice Stephen Breyer, a Clinton appointee, noted that there are “two provisions [in federal law] that say any policeman” can verify the im-

DREAM ACT continued

is unlikely to work. In an interview with Juan Williams on Fox News, Rubio noted that the Republicans' best hope to win Latino votes is to demonstrate that they have a better plan to improve the economy and address other concerns that Latinos place much higher than amnesty for illegal aliens. Moreover, the small segment of the Latino electorate for whom amnesty for illegal aliens is a make-or-break issue, is unlikely to be impressed by a watered down version of the DREAM Act. At the same time, a Republican DREAM Act would likely alienate many other voters who have consistently opposed granting amnesty to illegal aliens.

More importantly, a watered down Republican version of the DREAM Act is still bad public policy and would impose new burdens on American taxpayers and college students, while encouraging more illegal immigration in the future. The result of a DREAM Act, in any form, would mean countless thousands of illegal aliens flooding into already overburdened community colleges around the country in order to fulfill the educational requirements needed to gain some form of legal status. In addition, approval of such legislation would send a clear message to parents around the world to bring their kids to the United States illegally in the expectation that they, too, will eventually be allowed to remain.

It is unclear whether a Republican version of the DREAM Act would even get a vote on the Senate floor. Majority Leader Harry Reid (D-Nev.), who has championed the Democrats' version of the DREAM Act, initially indicated that he would not allow a Republican alternative to reach the floor. However, Rubio and his staff have expressed confidence that Reid would allow a Republican bill to be voted on — although that would likely occur only after amendments were offered by Democrats to substantially broaden the amnesty.

ALABAMA ENFORCEMENT continued

late September 2011 and appears to be effectively achieving its goal of reducing Alabama's illegal alien population. Moreover, in spite of the protests of illegal alien advocates, HB 56 has not resulted in anyone's civil rights being violated.

Not surprisingly, HB 56 remains extremely popular among Alabama voters. A statewide poll commissioned by FAIR in March found that 75 percent of likely voters support HB 56, including a clear majority, 52 percent, who said they "strongly support" the law as is.

COOK COUNTY continued

considerations," she said, ignoring the fact that the aliens are being sought by ICE for reasons other than the ones that landed them in a Cook County jail.

Unlike jurisdictions that attempt to enforce federal immigration laws that the Obama administration does not want enforced, there has been no threat of a federal lawsuit against Cook County for interfering in the federal government's attempt to remove criminal aliens from the country.

UNCLE OBAMA continued

liquor store, despite the fact that federal law prohibits illegal aliens from working in the U.S., and even though Massachusetts requires proof of legal residency before issuing a driver's license.

The terms of the plea agreement increase the likelihood that Onyango will be allowed to remain in the U.S. under the terms of the backdoor amnesty program being implemented by his nephew's administration. While it is not clear if a DUI conviction would have resulted in Onyango being designated as "high-priority" for removal, his attorney will likely argue that the lack of a conviction on his record plus his long-term presence in the U.S. (he has been here since 1963) make him a candidate for the exercise of prosecutorial discretion. Onyango is represented by Margaret Wong, the same attorney who represented his sister, Zeituni Onyango, as she successfully gained political asylum in spite of having twice defied deportation orders.

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The name *Seventh Generation Legacy Society* is taken from the great law of the Iroquois Confederacy: "In our every deliberation, we must consider the impact of our decision on the next seven generations."

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