

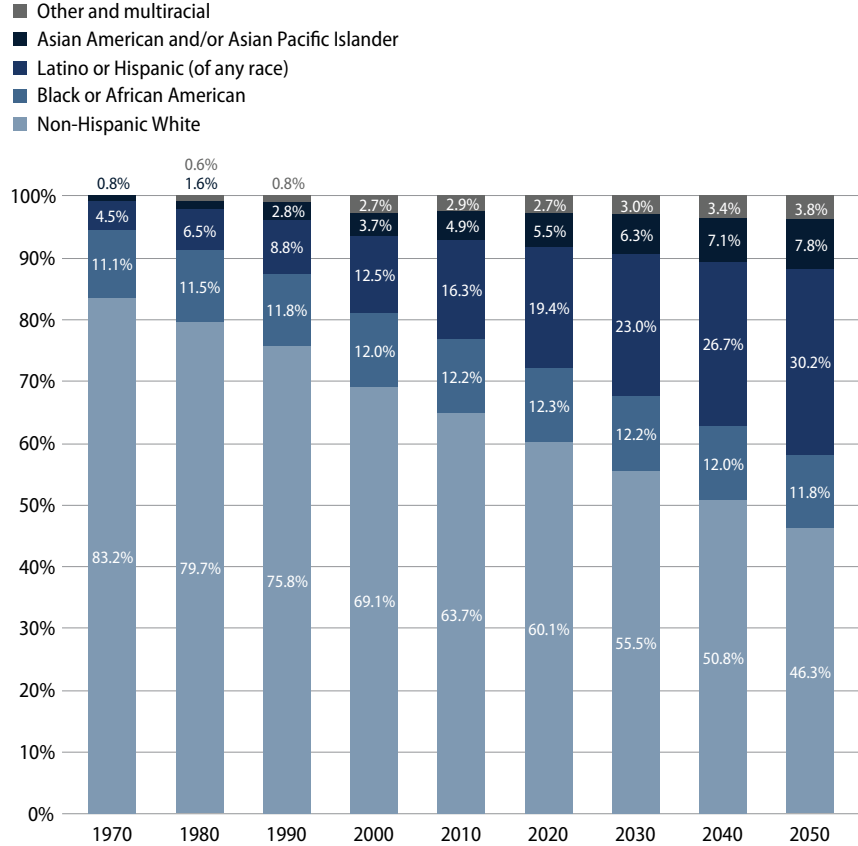
Ensure civil rights are respected so that everyone can fully participate in the economy

The increasing diversity of our country will create many opportunities, but we must make a concerted effort to fully extend the promise of the American Dream to everyone.

By 2050 the majority of Americans will be people of color, and many of them will be immigrants or the children of immigrants. Unfortunately, the core economic problems that the middle class faces—stagnating incomes, rising risks, and growing costs for necessities such as health care and higher education—are more acute for people of color.¹ If current racial and ethnic disparities in income, employment, education, health, and other social services continue, the United States will be losing out on the potential contributions of these Americans.

Currently, there are many barriers standing in the way of the full inclusion of many Americans in the economy. The nation’s extremely high level of incarceration—nearly

FIGURE 2
The racial and ethnic composition of the United States, 1970–2050



Sources: Data for 1970 and 1980 from Statistical Abstract of the United States. Data for 1990, 2000, and 2010 from the U.S. Census Bureau. Data for 2020 through 2050 from the U.S. Census Bureau Population Projections by Race and Ethnicity (2008).

1 out of 100 American adults are in jail or prison²—is costly for state government budgets and a waste of human potential. Immigrants face discrimination, as many states have passed draconian immigration laws, and are denied access to important social services, including higher education. At the same time, same-sex couples are denied a marriage license, which denies them the rights and responsibilities, as well as the economic benefits, afforded by marriage.

States must take proactive steps to bring down barriers—for example, passing laws to establish marriage equity and encouraging all eligible residents to vote—but they must also be sure not to erect new obstacles. Yet several states have recently passed laws requiring voters to show photo identification at the polls, despite evidence that voter fraud is incredibly rare.³ These laws disproportionately affect people of color and low-income voters,⁴ and can have economic ramifications. Likewise, bans on same-sex marriage have considerable economic consequences for the entire state economy.⁵

Improving the opportunities for all Americans—including people of color, immigrants, and gay and transgender Americans—is not only a moral obligation, it is also an economic necessity. Here’s what should be done to bring down these barriers to civil rights and expand opportunity for all.

End marriage discrimination by enacting marriage equality

Background

State laws grant hundreds of rights and responsibilities to married couples. In New York state alone, there are 1,324 rights and responsibilities conferred by state law upon married couples that are denied to unmarried couples.⁶ Many of these rights are fundamental to a family’s security, including the ability to qualify for family discounts for medical insurance, to visit one’s spouse in the hospital after an accident or an illness, to make medical decisions on a spouse’s behalf if necessary, to claim insurance benefits in the case of a spouse’s wrongful death, and to automatically inherit a spouse’s property.

Essential rights such as these strengthen families and provide confidence and security for those who enjoy them. According to the American Psychological Association, “research has shown that marriage provides substantial psychologi-

cal and physical health benefits due to the moral, economic and social support extended to married couples.”⁷

Yet in most states, laws or even constitutional amendments bar same-sex couples from being married, meaning thousands are denied access to the basic legal rights that are granted to legally married straight couples. The American Psychological Association also points out that research indicates the human cost of this discrimination, stating that, “Recent empirical evidence has illustrated the harmful psychological effect of policies restricting marriage rights for same-sex couples.”⁸

Adoptive and foster gay parents who are denied a marriage license face additional problems. Without access to a marriage license, one parent could be registered as the adoptive parent, while the other parent may have no legal relationship to their adopted child—essentially rendering them legal strangers.⁹ A nonadoptive parent may then be denied the right to make parental decisions at a school or doctor’s office; cover the child under employer-provided health insurance; or even visit the child in the hospital. If the couple were to divorce, the nonadoptive parent would have a significant disadvantage in a child custody dispute. Gay families where one parent is an immigrant face the additional risk of deportation tearing the family apart, since the U.S. partner or spouse cannot sponsor their foreign-born partner or spouse for permanent residency or citizenship, as is the case for Americans in heterosexual relationships.¹⁰

Enact freedom to marry

States should not continue to deny same-sex couples a basic civil right—the ability to get married—that it grants to heterosexual couples. Moreover, all children should have the same protections under the law—including access to insurance coverage, social security, emergency care, and inheritance rights—no matter if their parents are a gay or lesbian couple or a straight couple. For this reason child health and welfare advocates including the American Academy of Pediatrics,¹¹ the National Association of Social Workers,¹² the American Psychiatric Association,¹³ the American Academy of Nursing,¹⁴ and the American Psychological Association,¹⁵ support the freedom to marry.¹⁶

While the central reason to eliminate marriage discrimination is to guarantee all citizens equal civil rights protections, marriage equality also produces benefits to the economy. If same-sex marriage became legal in every state, weddings for same-

sex couples would result in an estimated \$9.5 billion windfall for the American economy.¹⁷ In its first year after enactment, the New York marriage equality law is estimated to have generated \$259 million for the New York City economy in marriage license fees, local celebrations, and wedding-related purchases alone.¹⁸

More important, enacting marriage equality can help end financial penalties borne by same-sex couples that want security for their families. Not only are same-sex couples and their children frequently unable to purchase health insurance at a discounted family rate, but many couples also spend considerable resources on lawyers to help them maximize the legal protections for their families—legal protections that straight couples can obtain simply by getting married. As life-long same-sex partners age, they are excluded from important benefits to ensure financial security in retirement that are available to heterosexual couples such as Social Security spousal benefits, survivor benefits, or death benefits.¹⁹ A same-sex couple’s “lifetime cost of being gay” can rise to as much as \$467,562.²⁰

Nine states and the District of Columbia have completely ended marriage discrimination against same-sex couples.²¹ They issue marriage licenses to same-sex couples and recognize legal marriages between same-sex couples that were performed in other states. State legislatures in Maryland, New Jersey, and Washington passed freedom to marry bills in 2012. Voters in Maryland and Washington defeated referenda placed on the November 2012 ballot by opponents seeking to overturn marriage equity laws passed by the legislature and signed by the governor of these states.²² Activists in New Jersey are working to override the governor’s veto of the legislature-passed bill.²³ In Maine, voters passed a ballot measure to allow marriage equity.²⁴

Other states with marriage equity include Connecticut (2008),²⁵ the District of Columbia (2010),²⁶ Iowa (2009),²⁷ Massachusetts (2004),²⁸ New York (2011),²⁹ Vermont (2009),³⁰ and New Hampshire (2010),³¹ where a repeal effort was defeated in 2012.³²

Grant civil unions and domestic partnerships in states where political realities prevent passage of marriage equity

In states where political realities may prevent passage of full marriage equality, state governments can enact laws granting some state-level spousal rights to same-sex couples such as civil unions and domestic partnerships.

Nine states plus the District of Columbia have laws granting some state-level spousal rights to same-sex couples. They are: California (domestic partnerships, 2007); Delaware (civil unions, 2012); District of Columbia (domestic partnerships, 2002); Hawaii (civil unions, 2012), Illinois (civil unions, 2011); New Jersey (civil unions, 2007); Nevada (domestic partnerships, 2009); Oregon (domestic partnerships, 2008); Rhode Island (civil unions, 2011); and Washington (domestic partnerships, 2009).³³ While these laws represent more relief for spouses than having no rights at all, they continue discrimination and are inferior to marriage equality legislation.

Maryland (2010) and Rhode Island (2007) also recognize same-sex marriages legally entered into in another jurisdiction.³⁴

Protect immigrants from discrimination

Background

The United States is a nation of immigrants. There were nearly 40 million foreign-born people living in America in 2010.³⁵ While more than 70 percent are citizens or legal residents—and undocumented immigrants make up only about 5 percent of the nation's population³⁶—a number of states have passed discriminatory anti-immigrant initiatives over the past two years that hurt documented and undocumented workers alike and inhibit states' economic growth.

Six states—Arizona, Utah, Georgia, Indiana, Alabama, and South Carolina—have enacted broad immigration enforcement laws that target undocumented immigrants and authorize local police to enforce immigration laws.³⁷ These laws have all been challenged in federal courts, and many of the most severe provisions have been temporarily or permanently struck down.³⁸ Still, litigation over a number of provisions continues, leaving open the question of how far the states may go in enacting policies targeting undocumented immigrants. To be sure, the U.S. Supreme Court's ruling in the Arizona case involving its immigration law made it clear that as a constitutional matter, states have very little room to maneuver in this area.³⁹ But in upholding the provision of Arizona's law that requires state officials to check the immigration status of anyone they suspect is undocumented,⁴⁰ the Court has left the door open to policies that will almost certainly lead to discriminatory profiling.

Even setting aside the constitutional questions, there are powerful policy reasons to reject these initiatives, which create a deeply hostile environment for all people of color regardless of their immigration status. Sixty-one percent of Latinos, for example, describe discrimination as a “major problem.”⁴¹ Nearly 20 percent of Asian Americans say they have encountered discrimination in the past year, and 13 percent describe it as a major problem.⁴²

But these harsh laws targeting immigrants don’t just hurt people of color.

Discriminatory immigration policies inhibit economic growth: Due to backlash against its anti-immigrant policy, Arizona’s tourist economy lost an estimated \$217 million that would have been spent by attendees to cancelled conferences after the law was enacted in 2010.⁴³ It was projected that Alabama would lose up to \$10.8 billion and 140,000 jobs after passing the nation’s toughest immigration law in 2011.⁴⁴

Rebuilding the middle class means enacting policies that view immigrants not only as individuals with civil rights but also as an asset to the nation, not a liability. To offer equal opportunity to all, state and local governments must expose and counter discrimination—whether it appears in outdated statutes and government policies or in daily practices in the commercial marketplace.

Strengthen community relations and defend civil rights through targeted enforcement of immigration law

State governments can help local law enforcement prioritize serious crimes—rather than expending valuable time and resources arresting and holding nonviolent undocumented immigrants in custody—by opposing the Department of Homeland Security’s Secure Communities program. Secure Communities, launched by the George W. Bush administration in 2008, requires local law enforcement officials to check the fingerprints of anyone in their booking units against the FBI’s criminal database, which then automatically shares information with the Department of Homeland Security’s immigration database.⁴⁵ Additionally, the federal government requests that anyone who shows up as being in violation of immigration laws be held until they can be turned over to federal law enforcement.

Among the stated goals of the Secure Communities program is to prioritize and focus law enforcement efforts on the most serious criminals among the undocumented immigrant population.⁴⁶ But its rapid expansion under the Obama administration has generated widespread criticism⁴⁷ for having undermined community

safety—for example, by damaging the immigrant community’s trust in local law enforcement and preventing otherwise law-abiding immigrants from reporting crimes—rather than prioritizing serious criminals. What’s more, the program has imposed the significant cost of holding detainees onto state taxpayers, while depriving innocent detainees from working in the local economy. Worse still, it has led to the deportation of the parents of children who are American citizens and robbed families of needed income.⁴⁸

States should pass legislation that ensures that only individuals charged with serious and violent crimes are detained for the federal government. Moreover, governors should use their executive powers to lobby the federal government to reform the Secure Communities program to comply with its original intent to prioritize and focus law enforcement efforts on the most serious criminals.

California’s TRUST Act—while not yet enacted—provides a powerful example of how state governments may limit enforcement of the Secure Communities program. The legislation would ensure that an individual would not be detained for a period longer than what is required under state law, unless the person has been convicted of a serious crime.⁴⁹ This change would have a significant impact: As of March 31, 2012, 70 percent of the more than 70,000 people deported under Secure Communities in California either had no criminal convictions or were picked up for minor offenses such as traffic tickets.⁵⁰

California is on solid legal ground because the detainer warrants that the Department of Homeland Security sends to a local government are simply a request for intergovernmental cooperation. Because they are not arrest warrants, nor are they legally binding on state law enforcement, states have the legal authority to reject them.⁵¹ Under the proposed legislation, law enforcement leaders would be able to redirect police resources from immigration enforcement back to protecting communities and will allow officers would regain the trust of their neighborhoods once they are no longer seen as substitute immigration agents.⁵²

Although California Gov. Jerry Brown vetoed a version of the TRUST Act in 2012 due to concerns that the list of crimes included for detainment was too narrow,⁵³ legislative leadership has signaled that they will take up a revised version of the bill in 2013.⁵⁴

Governors in other states with large immigrant populations, including Illinois Gov. Pat Quinn,⁵⁵ Massachusetts Gov. Deval Patrick,⁵⁶ and New York Gov.

Andrew Cuomo,⁵⁷ as well as District of Columbia Mayor Vincent Gray,⁵⁸ are refusing to participate in the Secure Communities program. A statement released by Gov. Cuomo's counsel explains that, "The heart of concern is that the program, conceived of as a method of targeting those who pose the greatest threat to our communities, is in fact having the opposite effect and compromising public safety by deterring witnesses to crime and others from working with law enforcement."⁵⁹

These declarations may be largely symbolic because the federal government has clarified that the check of the immigration database for all individuals arrested by local governments is mandatory. Still, the stances of these governors provide critical pressure on the federal government to reform the Secure Communities program and to shift its focus to only the most violent criminals.

Prohibit racial profiling

State governments should adopt legislation to prohibit racial profiling following the lead of Connecticut, which recently adopted a law that takes steps to do so.⁶⁰

Following a high-profile federal investigation of racial profiling by police in East Haven, Connecticut, the Connecticut Assembly passed S.B. 364 to require all local governments to formulate their own "written policy that prohibits the stopping, detention or search of any person when such action is solely motivated by considerations of race, color, ethnicity, age, gender or sexual orientation, and the action would constitute a violation of the civil rights of the person."⁶¹ In addition, each local policy would require enhanced data collection and reporting of traffic stops.⁶² Once the law goes into effect, any driver stopped by police must be given a copy of the report containing details about the driver and the case. Anyone who feels he was profiled due to race, color, ethnicity, gender, or sexual orientation can file a complaint, which must be reviewed by the local police and forwarded to a state agency.⁶³

Prohibit state and local governments from requiring E-verify

The U.S. Department of Homeland Security's E-Verify program requires federal contractors to check their payroll records to ensure that the names and Social Security Numbers of each of their employees appear in a national internet database of eligible

workers.⁶⁴ There are concerns, however, about the accuracy and completeness of the federal database⁶⁵ that have led to widespread criticism of the program.

Even though the federal government launched E-Verify “as an experimental and temporary system available to employers on a voluntary basis,”⁶⁶ some state and local governments have passed overreaching legislation requiring all employers to check their payroll records against the system.⁶⁷

Despite Arizona passing a law requiring private employers to use E-verify, only about half of new hires were vetted by the system in the fiscal year following the law’s adoption, which ended in September 2009.⁶⁸ For employers that do use the verification system, the effect of the law has been to drive undocumented workers further underground and off the books.⁶⁹ This situation hurts the state’s ability to regulate and protect its workforce and it undermines its fiscal self-interest by losing tax revenues.⁷⁰

In response, states such as California and Illinois have passed laws to prohibit state and local governments from requiring the use of E-Verify.⁷¹

California’s “Employment Acceleration Act of 2011,” for example, prohibits the state or local governments from requiring employers to use E-Verify unless it was required of them by federal law or as a condition of receiving federal funds. California decided that, “Mandatory use of an electronic employment verification program would increase the costs of doing business in a difficult economic climate,” and that, “California businesses would face considerable odds in implementing such a program. Employers using the program report that staff must receive additional training that disrupts normal business operations.”⁷² According to the act, “If E-Verify had been made mandatory for all employers in 2010, it would have cost businesses \$2.7 billion, \$2.6 billion of which would have been borne by the small businesses, which drive our economy.”

Unless and until the federal government enacts legislation enabling undocumented workers to earn legal status, mandatory E-Verify in states and communities will only exacerbate the negative consequences of a large and exploitable workforce.

Enforce health, safety, and worker protection laws without regard to immigration status

States should also enact policies ensuring that state and local government agencies will enforce health, safety, and worker protection laws for all residents regardless of immigration status. Moreover, state agencies must target outreach to immigrant workers, who are less likely to report violations for fear of deportation.

Employers in low-wage, high-risk occupations often hire immigrant workers, who are at particular risk of being taken advantage of by employers who cut corners when it comes to health and safety and worker-protection laws.⁷³ Moreover, undocumented workers and new immigrants who do not know their rights may be fearful of the repercussions of reporting workplace violations.

To underscore the point—fatalities among immigrant workers are a serious problem. While the overall number of workplace fatalities dropped by nearly 25 percent between 1992 and 2010, fatalities among foreign-born workers increased by 26 percent, and fatalities among Hispanic workers—many of whom are immigrants—increased by 33 percent.⁷⁴

In 2002 California passed legislation specifying that state labor, employment, civil rights, and employee housing laws will be enforced without regard to a person's immigration status, and that state agencies will not make inquiries into workers' immigration status unless required to do so by federal law.⁷⁵ The state's Department of Industrial Relations, which enforces the state's labor and workplace safety and health laws, will process wage claims; hold hearings to recover unpaid wages and represent workers; and investigate retaliation complaints and file court actions to collect back pay owed to any victim of retaliation without regard to a worker's immigration status.⁷⁶

In New York, Eliot Spitzer, while the state's attorney general, established a clear firewall between immigration and labor law enforcement,⁷⁷ while the former New York state Commissioner of Labor Patricia Smith prioritized outreach to immigrant workers by creating a mobile "labor-on-wheels" van to target workers during community events and establishing temporary bilingual labor offices in trusted community organizations.⁷⁸

Invest in the most vulnerable within the immigrant workforce

Background

States aspiring to expand and strengthen their middle class must eliminate discrimination and other barriers that hamper immigrants' ability to join the middle class, as well as take additional steps. State governments must also proactively support immigrant workers and families. Undocumented immigrants function on the fringe of our economy without access to these government services.

Undocumented youth graduating from state high schools, for example, often face significant barriers in accessing affordable post-secondary education. Thanks to a new federal deferral on deportation for young people who arrived in the United States as children, these youth have the potential to work their way into the middle class. But in most states, undocumented youth are not eligible for in-state college tuition, putting post-secondary education out of reach for most undocumented immigrants of modest means.

Undocumented immigrants are also prohibited from obtaining driver's licenses in most states, hampering their ability to travel to job sites and participate in the workforce.⁷⁹ Without a driver's license, it becomes nearly impossible to establish credit or open a bank account. Undocumented workers are commonly paid in cash and can become targets for street crime because they have to carry large sums of cash. The harm caused by the prohibition on driver's licenses goes beyond undocumented immigrants since law enforcement officers find it difficult or impossible to identify and prosecute unlicensed drivers who commit traffic violations or cause accidents.⁸⁰

Blocking undocumented immigrants from accessing these government services hurts everyone in our community. Inaccessibility to affordable post-secondary education means that too often the state's best and brightest students are confined to low-paying, dead-end jobs making it difficult for them to fulfill their economic potential. When undocumented immigrants drive without a license—and consequently without insurance—premiums for insured drivers increase.⁸¹ When New York considered legislation to extend licenses to undocumented drivers, the state's department of insurance estimated that subsequent drop in premiums would save insured drivers \$120 million annually by reducing premium costs associated with uninsured motorists by 34 percent.⁸²

Pass a state-level DREAM Act to allow undocumented students to attend state colleges and universities at the in-state tuition rates and to access public financial aid

State governments can invest in immigrant families by passing legislation authorizing qualified undocumented students to attend state colleges and universities at the in-state tuition rates and providing access to public sources of financial aid. Twelve states—California, Connecticut, Illinois, Kansas, Maryland, Nebraska, New Mexico, New York, Texas, Utah, Washington, and Wisconsin—have enacted legislation, sometimes referred to as state DREAM Acts, to allow undocumented immigrants who graduate from state high schools and meet certain requirements to pay in-state tuition at public universities.⁸³

The Maryland General Assembly passed a DREAM Act in 2011, and voters approved the law in a November 2012 referendum.⁸⁴ In Rhode Island, the Board of Governors for Higher Education approved a policy to allow undocumented students to pay in-state tuition at public universities.⁸⁵ California, New Mexico, and Texas also allow undocumented students to access public financial aid.⁸⁶

State DREAM Act campaigns received an unexpected boost recently when President Barack Obama announced the Deferred Action for Childhood Arrivals program, which will allow up to 1.76 million qualified undocumented immigrant youths to apply to remain in the United States without fear of deportation.⁸⁷ Prior to the announcement, DREAM Act opponents could argue that there was no point in providing taxpayer-subsidized college education to undocumented students since their lack of a work permit would prevent them from entering the workforce upon graduation.

The Deferred Action for Childhood Arrivals program means millions of qualified students and recent graduates will now bring new energy to state workforces. Individuals qualify to apply for deferred action if they immigrated to the United States when they were younger than age 16; were older than age 14 and younger than age 31 on June 15, 2012; had been in the United States for five years; were in or had completed high school or were in the armed services or had been honorably discharged; and had not been convicted of a felony, significant misdemeanor, or multiple misdemeanors.⁸⁸ Unfortunately, the program excludes many undocumented students—for example, based on their date of entry or their age. State governments should craft DREAM Acts with the broadest possible reach and do not need to track with the deferred action policy's requirements.

A recent report by the Center for American Progress found that federal legislation providing undocumented youth legal status and the opportunity to pursue higher education would have a positive economic impact nationally of \$329 billion over the next 20 years.⁸⁹ Individual states stand to gain significantly from this combination of legal status and incentivized higher education, as well.⁹⁰

Issue drivers licenses to all qualified residents regardless of status

The states of Washington and New Mexico have passed strong laws granting driver's licenses to qualified drivers regardless of immigration status.⁹¹ Legislators, advocates, and organizers have successfully defended these policies in Washington and especially in New Mexico, where Gov. Susana Martinez (R) has tried unsuccessfully to repeal the driver's license law on three separate occasions.⁹² While not ideal, Utah maintains a two-tier system that issues a driving privilege card for undocumented residents.⁹³

Prior to the terrorist attacks of 9/11—which sparked significant opposition to any privileges extended to undocumented immigrants—far more states issued driver's licenses to undocumented immigrants for the common-sense reason that it made the roads safer.⁹⁴

States fully extending driving privileges to undocumented immigrants will face additional challenges when the federal REAL ID Act of 2005 is fully implemented (which is scheduled to occur in early 2013).⁹⁵ The law mandates that states issue driver's licenses only to U.S. citizens or documented immigrants. States can choose to opt out of the program, but residents of states that do so would be forced to obtain a U.S. passport or alternate form of federal identification for federal identification purposes such as boarding airplanes and entering federal buildings.⁹⁶

President Obama's announcement of the Deferred Action for Childhood Arrivals program, however, has created momentum for the enactment of driver's license laws that are more limited in scope. Several states, including Virginia, Texas, California, Illinois, Indiana, Michigan, New York, and Ohio, have announced that youth who receive deferred action will also be eligible for driver's licenses.⁹⁷ Legislation in California, sponsored by state Assemblyman Gil Cedillo and signed in to law by Gov. Brown on September 30, 2012, will allow undocumented youth who receive work authorization under the program to qualify for driver's licenses.⁹⁸ Also, Illinois enacted legislation early this year to allow about 250,000 undocumented immigrants

that have lived in Illinois for at least a year to apply for driver's licenses that would look different than standard licenses and may not be used for other identification purposes such as for boarding an airplane or buying a gun.⁹⁹

In Oregon, Gov. John Kitzhaber (D) announced his support and promised in a letter to convene a working group to plan for the issuance of driver's licenses to undocumented immigrants. The goal, according to Gov. Kitzhaber's letter, is to encourage "people to come out of the shadows and contribute to our state's economic recovery."¹⁰⁰ In the meantime, according to his letter, the Oregon State Police will begin accepting identification issued by the Mexican government as a valid form of identification during traffic stops and other instances.¹⁰¹

Additional activity is expected in 2013 in Connecticut, California, Colorado, Florida, Vermont, and Maryland.¹⁰²

Issue substitute identification cards to undocumented workers

Legislators should consider adopting substitute identification cards for undocumented workers in states where issuing driver's licenses regardless of immigration status would be politically infeasible. Substitute identification cards are far more limited in scope, but for municipalities without the power to license, they have proved an effective tool in allowing undocumented residents to emerge from the shadows.

In California, Los Angeles, San Francisco, and Richmond are pioneering the use of an enhanced municipal library card as an identification card. Los Angeles, for example, will soon contract with a private vendor to allow individuals to use their enhanced library cards to open bank accounts, enabling them to deposit and withdraw money and send and accept wire transfers abroad.¹⁰³ San Francisco's enhanced identification card includes the individual's street address and medical conditions and is accepted as a form of identification by most of the city's banks and businesses.¹⁰⁴

In 2007 New Haven, Connecticut, became the first city in the nation to roll out its municipal identification—the Elm City Resident Card.¹⁰⁵ Hundreds of residents lined up to apply for the cards during the first few days the city accepted applications.¹⁰⁶ After five years, more than 10,000 residents have obtained a card.¹⁰⁷ Local officials report that this has not only helped undocumented residents access services but also increased community safety, as undocumented residents who witness crimes feel empowered to come forward.¹⁰⁸

Require governments to provide services without regard to immigration status

States should revise their state codes to clarify that within the limits of federal law, state and local governments are required to provide human services to any residents regardless of immigration status.

More than a dozen states now provide free prenatal care to pregnant women regardless of immigration status using either federal or state funds.¹⁰⁹ In 2011 Nebraska enacted L.B. 599, which established the right of undocumented mothers to free prenatal services in an interesting victory by pro-life and pro-immigrant advocates over immigration opponents.¹¹⁰ The state legislature found that because “unborn children do not have immigration status,” they should extend medical care to pregnant women who are income-eligible regardless of immigration status. The law took effect after the legislature overrode the veto of Republican Gov. Dave Heineman.¹¹¹

Additionally, many major cities have enacted policies that serve as models for state governments to guarantee that all public services will be provided to any resident regardless of immigration status. In New York City, executive orders 34 and 41 ensure that all New Yorkers regardless of immigration status can access all city services.¹¹² According to the executive orders, city workers must also protect the confidentiality of a person’s immigration status.

In 2009 Philadelphia Mayor Michael Nutter signed Executive Order 8-09, which bans city employees from asking about a resident’s immigration status unless required by law or to determine program eligibility, and protects the confidentiality of immigration status—unless disclosure is required by law, occurs with the permission of the individual, or the individual is suspected of criminal activity.¹¹³ The order also prohibits law enforcement officers from stopping, questioning, arresting, or detaining someone solely because of ethnicity, national origin, or perceived immigration status. Police are prohibited from asking about immigration status unless the status is directly related to a crime for which the person is being investigated or relevant to the identification of a suspect; asking about status for the purpose of enforcing immigration laws; or asking about the immigration status of victims, witnesses, or others who call or approach the police seeking help.¹¹⁴

Chicago has also had a longstanding policy prohibiting city officials from asking about the immigration status of individuals seeking city services since Mayor Harold Washington’s administration in the 1980s.¹¹⁵ That policy was recently reconfirmed in September 2012, when the Chicago City Council approved a

Welcoming City ordinance proposed by Mayor Rahm Emanuel.¹¹⁶ One component of that ordinance also requires “the development of public marketing materials that outline the services that law abiding immigrants can safely access in the city of Chicago.”¹¹⁷

Provide translation services

State legislatures should ensure that all state residents can access government services by requiring government agencies to provide translation services. In addition, state leaders can help uphold high standards in private industries that employ significant numbers of non-English-speaking immigrants by requiring such companies to provide translation services to their workers in order to uphold safety standards.

States should follow the lead of New York City, where the mayor’s executive order 120 requires city agencies to provide translation services to every city resident.¹¹⁸ The objective, according to Mayor Michael Bloomberg, is that all residents “should have the same access to the same services and the same opportunities.”¹¹⁹ Under the executive order, city agencies must provide telephonic interpretation, oral and written translation services, and translation of essential documents in the six most commonly spoken languages in the city: Spanish, Chinese, Russian, Korean, Italian, and French Creole.

Mayor Bloomberg’s executive order follows by five years the passage of New York City’s Local Law 73, the Equal Access to Services law, which requires agencies and contractors to provide language access, document translation, and assistance to fulfill the legislative intent of ensuring “that persons eligible for social services receive them and to avoid the possibility that a person who attempts to access services will face discrimination based upon the language s/he speaks.”¹²⁰

In Nebraska, former Gov. Mike Johanns (R) signed into law the Non-English-Speaking Workers Protection Act in 2003, which requires translation services to be available in the workplace.¹²¹ The law—which came out of efforts to improve work conditions in the meatpacking industry—requires employers with significant numbers of workers not fluent in English to ensure that translators are available to employees in the workplace and to provide statements written in the employees’ own language of terms and conditions of employment, including potential health and safety risks. Iowa has a similar law that requires employers

with a workforce that is more than 10 percent non-English-speaking to provide an interpreter available at the worksite for each shift during which non-English-speaking employees are present and employ a person whose primary responsibility is to serve as a referral agent to community services.¹²²

Invest in proven criminal justice methods and provide pathways out of the criminal justice system

Background

Too often crime-reduction policies of state governments are extremely costly and do little to make our communities safer or help provide offenders a pathway out of crime. Incarceration spending is growing at unsustainable rates and directly contributing to state budget shortfalls; state prisons and local jails are filled over capacity, often confining individuals who pose little threat to public safety; and too many communities are plagued by a seemingly unending cycle of violence and drug abuse.

A total of 2.2 million American adults are currently incarcerated in state and local prisons and jails, nearly 1 out of every 100 adults.¹²³ State spending on corrections has quadrupled from \$12.6 billion in 1988 to \$52 billion in 2008—outpacing the growth of nearly every other state budget item.¹²⁴ Jail populations also have increased significantly from 2000 to 2008, as have the number of individuals on probation and parole, which now approaches 1 in every 45 adults.¹²⁵

The prison population has outpaced capacity to such an extent in California that the U.S. Supreme Court has ordered the state's prison system to discharge 37,000 prisoners of its total of 156,000 inmates in 33 prisons. The High Court found that the effects of overcrowding—including inadequate medical and mental health care—caused “needless suffering and death” and constituted cruel and unusual punishment in violation of the Eighth Amendment.¹²⁶

Policing and corrections strategies that focus on locking more people up are not making communities safer. People convicted of nonviolent offenses comprise 60 percent of the prison and jail population today.¹²⁷ This allows whole generations of young people in some poor communities to cycle in and out of the corrections system and encourages the development of a permanent underclass, which impedes the economic development of everyone living in those communities.¹²⁸

Research shows that well-designed drug treatment, community corrections, and crime prevention programs cost far less and are far more effective than incarceration at reducing crime and providing offenders a pathway to a productive future. The Rand Corporation, for example, found that one dollar spent on drug treatment reduces crime related to cocaine use by as much as \$15.¹²⁹

Increasingly, bipartisan coalitions in state governments across the country are adopting sensible reforms that significantly cut state corrections spending while making communities safer and giving individuals convicted of nonviolent crimes the resources they need to reintegrate into society.

Adopt criminal justice reinvestment strategies

At least 16 states have implemented criminal justice reinvestment strategies to ensure that comprehensive data analysis drives state correction and prevention programs, and that these programs are targeted to the specific public safety needs of the state. By adopting these strategies, states have increased public safety, reduced crime, held offenders accountable, and controlled spending on corrections.¹³⁰

The Council of State Governments, a nonprofit nonpartisan organization serving state governments, outlines six lessons from those states that have initiated criminal justice reinvestment programs in its report, “Lessons from the States: Reducing Recidivism and Curbing Corrections Costs Through Justice Reinvestment.” The lessons detailed in the report include: conducting comprehensive data analysis; engaging all stakeholders from the outset; focusing resources on those most likely to reoffend; reinvesting in high-performing programs; strengthening community supervision; and incenting municipal and county governments to improve performance by restructuring funding.¹³¹

Kentucky, for example, is one of the most recent states to adopt a justice reinvestment program, which promises to save millions of dollars in corrections spending and reduce recidivism rates. Before implementation of the program, Kentucky’s prison population climbed by 45 percent between 1999 and 2009, and corrections spending rose 272 percent in the prior two decades. Yet despite increased spending and higher rates of incarceration, the recidivism rates remained high.¹³²

Kentucky’s 2011 justice reinvestment law—the result of a bipartisan task force convened by the state General Assembly—uses data to prioritize the most costly

prison space for the most violent offenders and establishes tracking mechanisms to reduce recidivism.¹³³ It also requires that 75 percent of state spending on supervision and intervention programs for pretrial defendants, inmates, and individuals on parole and probation is directed to programs that are evidence-based.¹³⁴ Kentucky's state budget director predicts that the law will generate state savings of \$422 million over 10 years, 25 percent of which will be dedicated to local corrections programs. The additional funds will be dedicated to substance abuse treatment, mental health programs, and efforts to address recidivism.¹³⁵

These predicted results are similar to those of other states that have adopted criminal justice reinvestment strategies. Texas was the first state to attempt justice reinvestment in 2007, resulting in \$443 million in immediate savings and a significant drop in crime rates.¹³⁶ North Carolina officials predict \$560 million in savings through the implementation of their program, such that the state's prison population is now expected to be 5,000 people less than previously projected for 2017.¹³⁷

Repeal mandatory minimum sentencing laws

States should repeal mandatory minimum sentencing laws, which have significantly contributed to prison overcrowding and driven up costs by requiring unnecessarily long prison sentences for nonviolent drug users. This portion of the incarcerated population poses little threat to public safety and, by being locked up in prison, misses out on treatment opportunities that are more effective at reducing crime. Eliminating mandatory minimum sentencing laws empowers prosecutors, judges, and defense attorneys, who know the facts of the case, to apply the appropriate discretion to determine sentencing.

Since 2009 several states, including New York, South Carolina, New Jersey, Massachusetts, Rhode Island, and Ohio have begun to reform their mandatory minimum sentencing laws.¹³⁸ South Carolina, for example, almost unanimously passed a sentencing reform law in 2010 in order to tackle the state's serious prison growth problem. The law there includes provisions to eliminate mandatory minimum sentences for simple drug possession and to give judges the discretion to impose nonprison alternatives on some types of drug crimes.¹³⁹ South Carolina's prison population had grown by 270 percent over the 25 years prior to passage of the law, its corrections expenses by 500 percent, and nearly half of its prisoners were incarcerated for nonviolent offenses.¹⁴⁰ With the adoption of the law, South Carolina is expected to reduce prison growth by 7.3 percent by 2014—saving the state \$241 million.¹⁴¹

Ohio too was facing similar problems: Its state prisons were at 133-percent capacity, and half of the incarcerated population was serving sentences of less than one year when Ohio passed its sentencing reform law in 2011.¹⁴² Its bipartisan reform law—which includes provisions to reduce mandatory minimum sentences for some drug crimes, requires nonprison alternatives for misdemeanors and low-level felonies, and expands parole eligibility—is projected to reduce prison growth by 13.8 percent by 2015 and save the state \$1 billion.¹⁴³

Leverage police intelligence and community involvement to improve safety

Cities across the country have significantly reduced violent crime, shut down open-air drug markets, reduced incarceration, and rebuilt relations between law enforcement and distressed communities through programs termed “intelligence-led policing.” States can encourage cities suffering from high rates of violent crime to adopt these cost-effective programs by providing technical expertise, funding assistance and coordination with states’ attorney generals’ offices.

Jeremy Travis and David Kennedy at the John Jay College of Criminal Justice of the City University of New York—who lead the National Network for Safe Communities, which is an alliance of cities dedicated to advancing strategies to combat crime, reduce incarceration, and rebuild relations between law enforcement and distressed communities—are pioneers in using intelligence-led policing to reduce violent crime and shut down drug markets.¹⁴⁴ Their strategy requires law enforcement to collect sophisticated intelligence on local gangs and drug dealers in order to understand how the networks operate and to build cases against offenders. But instead of simply prosecuting the worst offenders, law enforcement partners with social service providers and community organizations to engage in a sustained relationship with offenders. At “call-in meetings”—a key component of the strategy—offenders are presented with the legal consequences of further violence but are also given credible offers of support and assistance from their family, community leaders, and government social services to find work and end their involvement in illegal activities that harm the community.¹⁴⁵ The “Cure Violence/Chicago Ceasefire” model—an epidemiological crime prevention strategy, which also relies heavily on community involvement and intelligence—has met with similarly positive results.¹⁴⁶

Communities across the country, including Boston, Chicago, Cincinnati, and Indianapolis, saw significant reductions in gun homicides (from 25 percent to

more than 60 percent) after adoption of such policies.¹⁴⁷ In California, cities across the state are being encouraged to adopt this strategy in order to reduce gang violence. Under the leadership of the Governor's Office of Gang and Youth Violence Policy, the state has partnered with four private foundations to create "Safe Community Partnership Grants," which not only provide communities funding to adopt these strategies but also for intensive training and technical assistance.¹⁴⁸ Initial results demonstrate programmatic success: Gang related shootings, for example, were cut in half in Salinas, California, and homicides dropped in that city by 80 percent in the first six months of 2010, as compared to the same period one year previous before the law was adopted.¹⁴⁹

Strengthening indigent defense so that everyone gets a fair trial

States can reduce jail overcrowding, improve programmatic efficiency, and help ensure that everyone—regardless of their economic status—is able to exercise his or her constitutional right to a fair and expedient trial by reforming the indigent defense systems. State indigent defense programs are often plagued by severe underfunding, inexperienced legal counsel burdened with excessive caseloads, and inadequate payment systems that together contribute to severe jail overcrowding and create perverse incentives that encourage lawyers to spend as little time as possible on the defense of each individual client. In Texas, for example, more than half of jail inmates are pretrial defendants, and 20 percent of these pretrial defendants are being held for misdemeanor offenses—costing Texas taxpayers a total of more than \$471,000 per day.¹⁵⁰

While local governments generally provide the majority of indigent defense funding, the problem of jail overcrowding and low-quality counsel is so widespread that several states—Nevada, Idaho, Michigan, and Pennsylvania—have established special commissions to examine the issue.¹⁵¹

States must increase funding to counties and local governments for indigent defense programs, which could be generated by redirecting a portion of the savings associated with the repeal of minimum mandatory sentencing laws and other criminal justice reinvestment strategies to these programs. Additionally, states must institute systematic reforms to improve legal defense quality and efficiency. Best practices include creating an independent task force on indigent defense to monitor programmatic quality and advocate for reform; creating funding incentives for successful programs; expanding the use of public defenders at the local

and regional level; improving training and management of the private defense bar; and ensuring that indigent defense contracts adequately reimburse for the full cost of an investigation and trial.¹⁵²

The District of Columbia's Public Defender Services, a national leader in providing high-quality services, is funded at a level more than four times higher than the top-funded state. While the federal government spent about \$136 per capita on indigent defense services in the District of Columbia in 2008, funding for indigent defense in the states (which includes state and local funding) during that same period ranged from a high of about \$42 per capita in Alaska to a low of just barely more than \$5 per capita in Mississippi, with 15 states spending less than \$10 per capita.¹⁵³ The Michigan state legislature also passed a law this session that will normalize per capita expenditures for indigent defense counsel across the state and create a permanent and autonomous Indigent Defense Commission to implement and enforce minimum standards across the state.¹⁵⁴

Strengthen democracy by encouraging full participation

Background

In order to strengthen our democracy, state leaders should focus on encouraging all eligible citizens to vote. Americans take pride in the fact every citizen's vote is counted equally, no matter their age, race, economic background or social status. And we know elections work best when the electorate closely mirrors society. If young people and the poor turned out to vote at higher rates, it would be more difficult for politicians to ignore issues important to them. State-level voting laws should reflect this fundamental belief, making the ballot box equally accessible for all.

Yet more than a dozen states, including Pennsylvania, Wisconsin, Florida, and Texas, passed legislation making it more difficult for voters to cast a ballot since 2010.¹⁵⁵ These laws disenfranchise voters by increasing registration restrictions, limiting early voting, and requiring photo identification to vote.

Supporters of voting rights have spent considerable energy trying to fight these efforts and progressive coalitions in a number of states—including states as geographically and politically diverse as New York, Utah, California, and New Hampshire—are coming together to pass legislation to help increase voter

registration and access to the polls. Progressive leaders in other states have an opportunity to focus on laws to encourage all eligible citizens to vote in the 2013 legislative session.

Allow eligible citizens to register to vote online

State governments can increase participation by allowing eligible citizens to register online.

Most government forms can now be filed online. The IRS allows you to e-file your taxes. Many states permit you to register your vehicle on the Internet. Seniors can even apply for Social Security and Medicare online. And all of it is done safely and securely. Yet the vast majority of states still don't allow their citizens to register to vote on the web. Modernizing the process and allowing people to register online would significantly increase access to the right to vote.

Allowing online registration would be particularly helpful in increasing the youth vote. According to Project Vote, less than 63 percent of Americans ages 18 to 34 were registered to vote in 2009, yet a Nielsen survey found that these young citizens were by far the most electronically connected, with 88 percent having an Internet connection at home.¹⁵⁶

A handful of states are bringing voting rights into the 21st century. Sixteen states have passed bills permitting their citizens to register online,¹⁵⁷ and lawmakers in other states have already announced plans to introduce online voter registration legislation next year as well.¹⁵⁸

But online registration isn't just good for voters—it's good for state budgets as well. In Maricopa County, Arizona, for instance, processing a paper application costs taxpayers approximately 83 cents, while an electronic application will set them back just 3 cents. And in Washington, overall data entry time in some counties fell by 80 percent since the program was implemented in 2008.¹⁵⁹

One final benefit of registering online is that it prevents many clerical errors that often result in voters being disenfranchised. In Arizona, the number of human and data entry errors fell significantly since the programs started in 2002 because voters could enter and double-check their own information electronically.¹⁶⁰

Allow eligible citizens to register on Election Day

State governments can significantly increase access to the polls by enacting laws to allow citizens to register on Election Day.

Because voting in the United States is usually a two-step process—you must register to vote often weeks in advance before you can actually vote—many citizens lose their right to vote because they miss the registration deadline. Studies find that Election Day registration boosts turnout on average by 7 to 14 percentage points.¹⁶¹ And though less than two-thirds of eligible Americans typically vote in our presidential elections, the turnout rate among those who have registered to vote is typically between 75 percent and 90 percent.

It's not difficult to see why this is the case. Most states bar residents from registering to vote in the weeks just before an election—at a time when news coverage is at a fever pitch and many citizens are just starting to tune in. Some states such as Pennsylvania stop allowing people to register 30 days before an election.

Ten states and the District of Columbia enable residents to avoid such deadlines by allowing citizens to register to vote on Election Day. The group includes states as diverse as Wyoming to Wisconsin and New Hampshire to Iowa. In 2008 alone more than 1 million individuals registered on Election Day in these states.¹⁶²

Recent momentum has been building for Election Day registration. In 2012 both California and Connecticut passed Election Day registration legislation, coming on the heels of Iowa in 2007 and Montana in 2005.¹⁶³ Still, challenges remain. In 2011 Maine legislators tried to eliminate the state's 38 year-old Election Day registration law.¹⁶⁴ A petition drive forced the matter to a statewide referendum where voters overwhelmingly rebuked the move and reinstated Election Day registration.

Encourage young people to vote

Young Americans continue to vote at far lower rates than the rest of the citizenry. This year, for instance, half of the voting-eligible population between the ages of 18 and 24 cast a ballot, compared to more than two-thirds of senior citizens.¹⁶⁵

One simple way to ease the burden for young people and encourage them to

vote is for states to require public schools to facilitate registration on campus. Currently, at least 10 states either require public high schools and colleges to facilitate registration drives or to provide voter registration forms and accept completed applications.¹⁶⁶

Another way to help register younger voters is to allow for preregistration before the age of 18. These laws would allow teenagers to preregister when they are age 16 or 17 at their state registry of motor vehicles so they will be automatically added to the voting rolls once they turn 18. Currently, five states allow for preregistration at age 16, including Florida and Maryland, and two states, California and Oregon, allow for registration at age 17.¹⁶⁷ According to a study from George Mason University, preregistration programs are extremely effective at increasing voter registration.¹⁶⁸

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