

Arizona-like Law Wrong for Wisconsin

Rep. Don Pridemore of Hartford recently announced he plans to introduce an “Arizona-Like” immigration bill in the Wisconsin legislature when the new session begins this January. To put it bluntly, this legislation is wasteful, unconstitutional and has the potential for unintended racist consequences.

Wisconsin swept Republicans into power in the November election based on the promise that they would cut wasteful spending, defend the basic rights guaranteed by the Constitution and create jobs for Wisconsin.

Yet the first meaningful legislation proposed is not a jobs plan or an effort to decrease bureaucratic waste by the state government. It is one that would require cash-strapped local law enforcement agencies to divert already limited resources from investigating serious crimes in order to train officers, and house, feed and babysit additional “inmates” who may have done nothing wrong other than cross the border without documentation (which is not a criminal offense) and possibly driving with a broken tail light.

It is not only local law enforcement that would be burdened by the passage of immigration related legislation. The state coffers would be depleted as well. This legislation would guarantee that many viable and costly lawsuits would be filed against the State of Wisconsin by individuals and, likely the federal government. At a time when District Attorneys are being forced to cut staff around the state and dockets are exploding, Attorney General Van Hollen would be required to spend millions of dollars to defend the state and its legislation in a case that it is not likely to win. Finally, municipalities and counties that are already struggling to balance budgets while providing needed services could also be sued for failing to enforce the law.

Quite simply, any immigration enforcement related legislation introduced in Wisconsin is a waste – a waste of time, of money and of precious resources.

One of the key clauses of the Constitution has become known as the Supremacy Clause. Article VI, Section 1, Clause 2 essentially states that where the federal government has passed a law, the states may not pass any conflicting law or interfere with the federal government’s prerogative to enforce the law in compliance with its policies and priorities.

Undoubtedly, the federal government has laws (albeit ineffective laws) on the books regarding immigration. The Constitution requires that the federal government be given the deference to enforce those laws in the way it chooses. Even if the Wisconsin law were to claim to simply “enforce” existing federal law, the state does not, constitutionally, have the power to do so unless specifically authorized by the federal government to do so.

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Any Wisconsin immigration law would likely suffer the same fate as Arizona's law. This summer, a federal judge prevented the implementation of key enforcement provisions of the legislation, including the requirement that officers make a reasonable attempt to determine the immigration status of a person stopped, detained or arrested if there is "reasonable suspicion" that the person is unlawfully present in the United States because of the formidable constitutional challenge.

As Wisconsin's new legislative majority works to protect and defend the Constitution, it cannot pick and chose. All provisions of this sacred document, including the Supremacy Clause, must be respected and preserved. Any effort by the state to legislate in the realm of immigration does not do that.

Finally, and perhaps most importantly, any law requiring law enforcement to seek immigration documents from individuals suspected of committing a crime if they have "reasonable suspicion" that the individual is here illegally is inherently racist. I challenge proponents of the law to come up with any factors that could be used to determine "reasonable suspicion" that do not involve illegal racial profiling. Does Wisconsin, with its progressive roots and deep immigrant history, really want to become known as a state where a person who may have the "wrong" color of skin or doesn't speak English perfectly is unwelcome?

While Rep. Pridemore is right to be frustrated with the federal government's response to the immigration problem, his attempt to legislate it on the state level is simply wrong. His energy, the energy of other state legislators and Governor-Elect Walker, and the energy of concerned citizens around the state, is much better spent pressuring our federal representatives to fix our broken immigration system with a comprehensive plan.