



Arizona v. United States: SB 1070 in the U.S. Supreme Court

On April 25, 2012, the Supreme Court of the United States will hear arguments in *Arizona v. United States*. Those arguments will focus on the lawsuit filed by the federal government challenging the Arizona immigration law, SB 1070. There are other challenges to the law including *Friendly House v. Whiting*, a lawsuit filed by the American Civil Liberties Union (ACLU) and other civil rights groups on behalf of various individuals and organizations in Arizona.

A decision by the Supreme Court about the Arizona law will impact Arizonans as well as people in states across the country that have passed similar anti-immigrant laws. The following are answers to some common questions about the law, the upcoming hearing and possible outcomes. Regardless of what happens in the Supreme Court, it is very important to stay informed, understand your rights and report any abuse.

What is SB 1070?

SB 1070, signed into law in April 2010, expands the authority of local police and sheriffs to stop, question, and detain immigrants suspected of violating federal immigration law. SB 1070 would require police officers in Arizona to demand papers proving citizenship or immigration status from people whom they stop based on a "reasonable suspicion" that they are in the country unlawfully. The law clearly invites racial profiling by officers who are likely to rely on the way people look in forming any "suspicion" that they are not in the country lawfully. The stated intent of the law is "attrition through enforcement" – essentially to make law enforcement so intrusive and aggressive that people flee Arizona and the United States. The racial discrimination that motivated SB 1070 and copycat legislation is unjust, un-American, and unconstitutional and cannot be tolerated.

Is SB 1070 in effect? What parts of the law were blocked?

SB 1070 includes ten provisions. Currently, six key provisions of SB 1070 are not in effect including:

- **Section 2(B) Part 1:** The requirement that police officers ask everyone they stop about their immigration status if they think there is "reasonable suspicion" that the person is undocumented;
- **Section 2(B) Part 2:** The requirement that police officers determine the immigration status of every person they arrest before the person can be released;
- **Section 3:** The provision that allows the police to charge you with a state crime for failing to carry "registration" papers if you do not have permission to be in the United States;
- **Section 5 Part 1 (A) & (B):** The provision that makes it a crime for day laborers to be picked up for work on a sidewalk, street, or highway if the vehicle is impeding the flow of traffic;
- **Section 5 Part 1 (C):** The provision that makes it a crime for undocumented workers to look for work in a public place or perform any work;
- **Section 6:** The provision that allows police officers to arrest a person without a warrant if they have "probable cause" to believe that person can be deported.

What issues will the Supreme Court consider in *Arizona v. United States*?

The main legal issue addressed by the U.S. Department of Justice (DOJ) against SB 1070 is "preemption" - whether states have the authority to make laws on federal immigration matters. The DOJ argues that immigration is an area of exclusive federal authority and that state and local officers do not have the authority to enforce immigration laws unless specifically authorized by the federal government. The Supreme Court's evaluation of SB 1070 will focus on this issue of preemption and could impact immigration enforcement in Arizona and states with copycat laws.

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.

Does a decision in favor of Arizona mean that all the provisions of SB 1070 will go into effect?

No. The federal government's case against SB 1070 addresses four specific provisions that have been enjoined including Section 2(B), Section 3, Section 5(C) and Section 6, described above. A decision in favor of Arizona would only impact these provisions; the other provisions would continue to be blocked until a decision is made in the *Friendly House* case. Even if these four provisions were allowed to go into effect, the ACLU would continue to challenge any unjust *application* of SB 1070 by local police and sheriffs that resulted in racial profiling, prolonged or unlawful detention and any other constitutional violations.

Does a decision against Arizona mean that all the provisions of SB 1070 are permanently struck down?

No. A decision by the Supreme Court at this time does not mean that those provisions in question will be permanently struck down. If the Supreme Court decides in favor of the DOJ, the provisions in *Arizona v. United States* would be blocked pending a final decision on the legality of the whole law. The other provisions of SB 1070 that have been enjoined in the *Friendly House* case would continue to be blocked until the legal challenge in that case is complete. A decision in favor of the DOJ is an important step toward a fair and consistent federal immigration system and away from the patchwork of unconstitutional state anti-immigrant laws.

When will the case be argued and decided by the Supreme Court?

The Court will hear arguments from the DOJ and the State of Arizona on April 25, 2012 but not issue a decision on that day. We expect that the Court will announce their decision by the end of June 2012.

Why did the Supreme Court agree to hear the United States Department of Justice case, but not the case filed by the ACLU and other civil rights groups?

In June 2010, a federal court judge in Phoenix made the decision to block various provisions of SB 1070 from going into effect until the court could rule on the legal challenges to the law. The State of Arizona decided to appeal the decision that the federal court made in the DOJ case, which was then followed by an appeal to the Supreme Court. Although the Supreme Court does not generally provide explanations why they accept some cases and not others, according to Supreme Court rules, the Justices agree to hear cases when the decision under review conflicts with a prior appellate or Supreme Court decision or the decision under review involves an important question of federal law that has not been settled by the Supreme Court yet.

Local police and sheriffs cannot enforce any of the enjoined sections of SB 1070. Your rights will not change on April 25th. Regardless of what happens in the Supreme Court, it is very important to stay informed, understand your rights and report any abuse. The ACLU of Arizona will continue to litigate anti-immigrant legislation that threatens Arizonans' basic rights and defend the freedoms guaranteed by the Constitution.

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 the American Civil Liberties Union of Arizona (ACLU-AZ) at (602) 650-1854 or www.acluaz.org.