FAQs Proposition 314

This document provides general legal information about Proposition 314 (for other topics please click on tabs to the left). Every question in this document has been prepared and reviewed by three local attorneys. While we strive to keep all information up-to-date, the information featured here may change or become outdated as new laws and court decisions go into effect.

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Have another question on this topic? Submit your question here.

1. What is Prop 314, and how does it impact immigrants in Arizona?
   ¿Qué es la Proposición 314 y cómo afecta a los inmigrantes en Arizona?

Proposition 314 is a new law passed into law by Arizona voters in November 2024. It has 4 main provisions. The following three provisions went into effect on November 25, 2024.

- Verification of status for public benefits: Prop 314 requires state and local agencies that provide benefits like Medicaid (AHCCCS), food stamps, and unemployment to verify the immigration status of people receiving those benefits. Agencies will now be responsible for verifying recipient immigration status with U.S. Citizenship and Immigration Services (USCIS), a federal immigration agency, using a program called SAVE.
- Crime to use false/fraudulent documents for work or public benefits: Prop 314 makes it a crime for people without immigration status to apply for government benefits with false information. People who submit fake identification to their jobs to check immigration status under E-Verify can also be punished under this law.
- Additional penalties for sale of lethal fentanyl. Prop 314 adds strict new punishments for selling fentanyl in Arizona that was made outside the United States and causes the death of another person.

The most controversial provision that would likely have the largest impact on the local immigrant community is NOT in effect yet and right now we do not know exactly when it will go into effect, if ever. This fourth provision creates a new state crime for entering Arizona from a foreign country without legal immigration status. This will now allow local police and sheriffs (to join federal immigration officers like ICE) in making arrests for illegally entering Arizona. These arrests could happen anywhere in the state, including schools, hospitals, and churches. If criminal charges are brought under this law, Arizona judges can then sentence them to prison and order their deportation to Mexico. This part of the law could even apply to people seeking asylum or other legal status who have been allowed into the country by the federal government. This law will only go into effect once a Texas law, SB4, or other similar state law has been in effect for 60 days. Right now, all of those laws are being challenged in the courts. We do not know when they will be decided and go into effect.

2. How does Prop 314 affect mixed-status families, and what protections are available to them?
   ¿Cómo afecta la Propuesta 314 a las familias de estatus mixto y qué protecciones están disponibles para ellas?

Proposition 314 does NOT apply to people currently living in the United States, even if they entered unlawfully or currently do not have status. The "illegal entry" part of the law only applies PROSPECTIVELY. This means it only applies to people that enter Arizona unlawfully from Mexico after the law goes into effect (the date it will go into effect is still unknown, see Question 1).

That being said, Proposition 314 does not provide any specific protection for mixed-status families; it puts any undocumented person who enters Arizona from a foreign country after the law goes into effect at risk of arrest, imprisonment, and deportation to Mexico from the state of Arizona. It does not provide any special protections to parents, individuals with strong family ties, or individuals with pending applications for immigration status.

While this law is only applicable to people who enter Arizona unlawfully from Mexico after the law goes into effect, it may still affect people who have lived here for a long time because it will likely cause increased racial profiling.

Although someone who has been here for a long time cannot be convicted or deported by the Arizona state courts under Proposition 314, Proposition 314 will likely still put them at higher risk for immigration enforcement. It is highly likely that Proposition 314 will result in many more immigrants and people of color (regardless of immigration status) being racially profiled and stopped and questioned by law enforcement. And even if at the end of the day they find that the person cannot be charged or convicted under Proposition 314, if the person is undocumented and does not have a case with the immigration court, they might have already called ICE and put the person on the path to deportation. This is why it is important that people understand their rights when stopped by the police.

We also encourage individuals in mixed-status families to make family defense plans in case a family member is arrested or detained. You can find some guides on how to make a plan and complete necessary documentation here:

- Florence Project (Arizona specific): English here, Spanish here.
- Immigrant Legal Resource Center: English here, Spanish here.

3. Are health and social services for immigrants affected by Prop 314? How does Prop 314 affect my public benefits? What services can I access? Ie - prenatal care, SNAP, AHCCCS?
   ¿Los servicios sociales y de salud para inmigrantes se verán afectados por la Proposición 314? ¿Cómo afecta la Propuesta 314 a mis beneficios públicos? ¿A qué servicios puedo acceder? Por ejemplo, atención prenatal, SNAP, AHCCCS.

Proposition 314 does NOT change a person's eligibility for health and social services or public benefits. If before Proposition 314, your immigration status allowed you to access health & social services and public benefits, you will continue to be eligible. If before Proposition 314, your immigration status did NOT allow you to access them, you will continue to be ineligible.

Proposition 314 requires public agencies to conduct more specific process for immigration status verification when processing applications for a local, state, or federal public benefit. Examples of public benefits include unemployed, food stamps, cash assistance, etc. Proposition 314 requires public agencies to run the immigration status of the person applying for benefits through a national system called the Systematic Alien Verification for Entitlement or SAVE program. This system is managed by U.S. Citizenship and Immigration Services (USCIS), a federal immigration agency. If the person's immigration status cannot be verified through the SAVE program, the applicant will not receive the public benefit.

NOTE: Only the person applying for benefits needs to have their immigration status verified through SAVE. If a parent is undocumented and is applying for a family member with immigration status, only the applying family member's immigration status should be verified through SAVE. The undocumented parent who is not applying for themself is not required to have their immigration status verified.

Last updated: December 19, 2024

4. How does Prop 314 handle sensitive locations like schools, hospitals, or places of worship regarding enforcement?
   ¿Cómo aborda la Proposición 314 la aplicación de la ley en lugares sensibles como escuelas, hospitales o lugares de culto?

Proposition 314 does not provide any specific protections for sensitive locations. On its face, it can be enforced in all of these places. At the federal/national level, the law also allows for enforcement in these areas, but ICE has historically adopted a policy of not conducting enforcement in these areas (see, e.g. 2021 Mayorkas Memo "Guidelines for Enforcement Actions In or Near Protected Areas"). Advocacy with local law enforcement to adopt similar policies to refuse to enforce in these sensitive areas may be a strategy to explore.

5. Are there exemptions in Prop 314 for humanitarian cases or asylum seekers?
   ¿Existen exenciones en la Proposición 314 para casos humanitarios o solicitantes de asilo?

Proposition 314 does not contain any exemptions for pending humanitarian cases or asylum seekers. However, if someone wins asylum or other lawful status, they are exempted. But there is no exemption while they are in the process.

Responses forthcoming.

6. Does Prop 314 include any protections for DACA recipients or those with pending immigration cases?
   ¿La Proposición 314 incluye alguna protección para los beneficiarios de DACA o aquellos con casos de inmigración pendientes?

7. What rights do immigrants have if stopped under policies implemented by Prop 314?
   ¿Qué derechos tienen los inmigrantes si son detenidos bajo las políticas implementadas por la Proposición 314?

8. What role does Prop 314 play in workplace compliance for employers hiring undocumented workers?
   ¿Qué papel juega la Proposición 314 en el cumplimiento de las normas en el lugar de trabajo para los empleadores que contratan a trabajadores indocumentados?

9. What legal documents or evidence should immigrants carry to protect themselves under Prop 314 enforcement?
   ¿Qué documentos o pruebas legales deben llevar los inmigrantes para protegerse ante la aplicación de la Proposición 314?

10. How does Prop 314 affect immigrants' ability to obtain driver’s licenses or other forms of identification?
    ¿Cómo afecta la Proposición 314 la capacidad de los inmigrantes de obtener licencias de conducir u otras formas de identificación?

FAQs IMMIGRANT RIGHTS

This document provides general legal information about immigrant rights (for other topics please click tabs on left). Every question in this document has been prepared and reviewed by three local attorneys. While we strive to keep all information up-to-date, the information featured here may change or become outdated as new laws and court decisions go into effect.

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Have another question on this topic? Submit your question here.

1. **What are my rights if I am stopped by Immigration and Customs Enforcement (ICE)?**
   ¿Cuáles son mis derechos si me detiene el Servicio de Inmigración y Control de Aduanas (ICE)?

You generally have the same rights when you are stopped by ICE as any other law enforcement. These rights include:

If you are not under arrest, you have the right to calmly leave. You can ask: “Am I detained or am I free to go?”

You have the right to remain silent. If you want to exercise this right, say so out loud: “I am exercising my right to remain silent.” In Arizona, you are required to provide your name, but you do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country. This right to remain silent means you also do not have to show them any documents. Do not hand over any foreign documents such as a passport, consular IDs, or expired visas. They will use any information you provide against you. NOTE: Different rules apply at international borders and airports, and for individuals on certain nonimmigrant visas, including tourists and business travelers.

You have the right to refuse consent to a search of yourself, your belongings, your vehicle, and/or your home. If they ask to search something, say out loud: No I do not consent to the search.

You have the right to speak with a lawyer at your own cost. Unlike a criminal arrest, you do not have a right to a free lawyer. You can ask ICE for a list of free or low-cost lawyers.

You do not have to sign anything.

For more information about your rights in different situations:

Visit the ACLU, Rights When Stopped by Immigration: English here, Spanish here

Visit Immigrant Defense Project, Know Your Rights with ICE available in over 10 languages here.

Last updated: December 18, 2024.

2. **How should I respond if ICE comes to my home?**
   ¿Cómo debo responder si ICE llega a mi casa?

If anyone comes to your home, before opening the door, ask who they are. Clarifying if police or ICE. Ask them to show their badge through a window or through the peephole.

If the police or ICE, stay calm, be polite, don't lie. If possible, record your interaction.

Ask if they have a warrant. Ask them to pass the warrant to you underneath the door or show it to you through a window or the peephole. Check the document. You do NOT have to let ICE or any law enforcement into your home unless they have a warrant signed by a judge. ICE most commonly has a Form I-205 Warrant of Removal/Deportation. This is NOT a warrant signed by a judge and does NOT give ICE the right to enter your home or to force you to come out and turn yourself in. If they do not show you a warrant with your name on it AND signed by a judge, do NOT open the door. Say, "I do not consent to your entry" and stay inside. EXCEPTION: If you or someone in your home is on probation that allows for searches, law enforcement can enter without a warrant.

If the agents force their way in, do not resist. State again, "I do not consent to your entry or search. I am exercising my right to remain silent. I wish to speak with a lawyer."

If they are looking for someone else, ask them to leave their contact information. You do not have to tell them where to find the person and you should not lie.

For more information see Immigrant Defense Project, Home Raids available in 6 different languages here. Or Visit the ACLU, Rights When Stopped by Immigration (English here, Spanish here).

Last updated: December 18, 2024.

3. **How should I respond if ICE my workplace?**
   ¿Cómo debo responder si ICE llega a mi lugar de trabajo?

Do not panic and do not run away. If you can, calmly walk away. If you are stopped as you leave, you can ask if you are free to leave. If the officer says no, do not try to exit the building.

If you are questioned, you have the right to remain silent. Aside from providing your name, you do NOT need to answer any questions about where you were born, how you entered the United States, or anything else. If you choose to remain silent, say so out loud, "I am exercising my right to remain silent" or show them a know your rights card that says you want to remain silent.

If they ask you to stand in a group according to immigration status, you do not have to move, or you can move to an area that is not designated for a particular group.

You may refuse to show identity documents. Do NOT show any false documents and do not lie.

You have the right to speak to a lawyer at your own expense (you do not have a right to a free lawyer if you are detained by ICE). Even if you do not have a lawyer, you may tell immigration offices that you want to speak with a lawyer.

You can refuse to sign any/all paperwork until you have the opportunity to speak with a lawyer. If you choose to sign something without a lawyer, be sure you understand exactly what the document says and means before you sign it.

Last updated: December 18, 2024.

4. **What documents should I always carry with me to avoid issues with immigration authorities?**
   ¿Qué documentos debo llevar siempre conmigo para evitar problemas con las autoridades migratorias?

If you have proof of legal status in the United States including a green card, valid unexpired visa, valid, unexpired TPS, etc it is best to have it on you at all times, or at least a copy of it. If you have not violated the terms of that status (e.g. committed a crime, overstayed your visa, etc.), immigration generally cannot detain or deport you.

What if I have a pending case with the immigration court? If you have an open immigration court case (with the immigration court, the Board of Immigration Appeals, or a circuit court) ICE is already aware you are here. As a result, ICE is unlikely to detain you unless you have committed a crime, missed a court hearing or check-in, have no further right to an appeal or hearing, or have done something else that makes them think you would be a danger to the community or flight risk.

What about a pending case with U.S. Citizenship & Immigration Services (USCIS)? If you do not have any open case with the immigration court, but instead raised your hand to request legal status with U.S. Citizenship & Immigration Services (USCIS), ICE is generally unaware you are here. In many cases, if you only have a pending case and no current legal status, ICE has the authority to detain you and start the immigration court process to deport you. However, if you do have a pending case with USCIS it is recommended that you carry proof of it (copy or original) with you. It could be a reason that ICE chooses not to detain you or start a court process. NOTE: If you have recent criminal charges, you are at much higher risk for detention and ICE is more likely to open a case with the immigration court. If you have a prior

deportation, you have a very high risk of detention and the only way to stop your immediate deportation is to state that you have a fear of returning to your home country. If you have a prior deportation, you do NOT have an automatic right to see a judge in immigration court.

What about a work permit or driver's license? Not all work permits or driver's licenses are equal. If you have one, definitely carry it. But whether or not you will have problems with ICE will depend on whether you got the work permit or driver's license based on having legal status, a pending case with immigration court, or a pending case with USCIS.

For information on documents to carry with you to avoid issues with local law enforcement seeking to enforce Proposition 314, see Question 8 of FAQs on Proposition 314.

Last updated: December 18, 2024.

5. **What is the difference between a green card, visa, and work authorization?**
   ¿Cuál es la diferencia entre una tarjeta verde, una visa y una autorización de trabajo?

Someone with a green card has permanent residence in the United States. Because their residency is permanent, they don't lose it when they forget to renew or lose their green card. Green card holders do not need separate employment authorization (work permit) or travel authorization (advance parole). Although a person with a green card has permanent residence, it can be revoked if the person commits certain crimes, stays too long outside the U.S., etc. The only way to avoid deportation (removal) or revocation of immigration status is to become a U.S. citizen.

A visa is a temporary status in the United States. There are many different types of visas with varied lengths of validity. Types of visas include tourist visas, employment-based visas (e.g. H1A, H1B etc), humanitarian visas (e.g. U visa, T visa). All visa holders must obtain work authorization to work in the United States and some visas are not eligible for work authorization. Because this status is temporary, the holder must follow the rules of the visa and renew it to keep the status. A visa can be revoked if someone does not comply with the rules of the visa. Some visas have a future path to permanent residence while others do not.

Employment authorization, also known as a work permit is proof that someone is legally allowed to work in the United States. Many immigrants can get work authorization while their immigration cases are pending. They must continually renew their work authorization to remain legally permitted to work in the United States. Depending on the specific immigration status they have, the period of work authorization can vary from a

few months to multiple years. A work permit does not allow a person to travel in and out of the United States.

Last updated: December 12, 2024.

6. **How can I legally protect myself if I am undocumented?**
   ¿Cómo puedo protegerme legalmente si soy indocumentada?

Some undocumented immigrants may have a path to obtain legal status. You should contact an experienced immigration attorney for a consultation to see if there is a way to obtain legal status.

If you are not currently in immigration court proceedings, you can also use this online tool to see if you might be eligible for immigration status. Available in English here, Spanish here. NOTE, this is an online tool. It will not be able to consider all of your specific circumstances. That's why a consultation with an attorney is also important, but this tool can be a helpful starting point.

Last updated: December 12, 2024.

7. **What steps should I take if I am placed in deportation (removal) proceedings?**
   ¿Qué pasos debo seguir si me ponen en un proceso de deportación?

If you are placed in deportation proceedings, there are a few key things to know**:**

1. Finding Your Hearing Date: Make sure that you have the tools to confirm the date and time of any hearings. Using your alien number, which is a nine-digit number following the letter "A", you can look this information up by calling 1-800-898-7180 or online at https://acis.eoir.justice.gov/en/.

2. Go to ALL hearings, even if you do not have a lawyer. If you miss a hearing, you are GUARANTEED to receive a deportation order. If you show up, even without an attorney, you have a chance to keep fighting. Typically, immigration judges will give you time to find an attorney at least once.

3. Interpretation: If you do not speak English or speak another language better, you have a right to an interpreter in your best language. The court must provide you with an interpreter free of cost during your court hearings. Do NOT continue in English if you do not speak English well enough to understand the proceedings.

4. Hire an Attorney: The immigration court does NOT provide immigrants with a free attorney. You are NOT required to have an attorney to go to court; you have the right to represent yourself. However, the immigration law and the court process are complicated, especially if you do not speak English. Studies show that non-detained

immigrants are 5x more likely to win their case with an attorney and detained immigrants are twice as likely to win with an attorney. Attorneys can be costly, but they do often improve your chances of winning. But again, you are NOT required to have an attorney and can choose to represent yourself if you cannot afford an attorney or do not want one.

5. Correct Mailing Address: Make sure the immigration court always has your correct mailing address. The immigration court communicates by mail. It is important that you receive all court notices, so make sure you always update the court with any change in mailing address and that you check your mail regularly. You can update your address with the immigration court using Form EOIR-33IC available here or you can do it online here (multiple languages available, choose from dropdown menu on top right corner).

Last updated: December 12, 2024.

4. What resources are available to help me find a trustworthy immigration attorney?
¿Qué recursos están disponibles para ayudarme a encontrar un abogado de inmigración confiable?

Immigration is a specialty legal area. Be sure you hire an attorney that is experienced in immigration.

It is important that you receive legal advice from a lawyer. You should also confirm that the person you are speaking with is in fact a lawyer and not a document preparer, notary, or paralegal. You should ask the attorney for their bar license state (the attorney need not be licensed in the state you are living in). Go to that state bar and confirm that they are, in fact, a licensed attorney.

The American Immigration Lawyers Association has this online "Find a Lawyer" tool (in Spanish here) that can help guide you in finding an experienced immigration attorney in your area.

Talk to local organizations you are part of, they may also have a trusted attorney referral list. Again, just make sure it is for an immigration attorney.

Last updated: December 12, 2024.

5. How can I protect my family in case I am detained or deported?
¿Cómo puedo proteger a mi familia en caso de ser detenido o deportado?

Advanced planning can help you protect your family when you are detained or deported.

- Memorize Phone Number: Make sure you have at least one family member's or friend's phone number memorized. Often, when you are detained, they will

confiscate your phone. If you do not have a phone number memorized, it may take much longer for you to be able to communicate with your family.

- Important Documents Saved in Known Location: Keep a good copy of your important documents – such as your birth certificate, passport, your marriage certificate, the birth certificates of your spouse and children, proof of pending immigration case and/or immigration status -- in a safe place and make sure your family knows where to find all of that information so that they can contact your attorney and/or provide that information immediately. These should be good clear complete copies. It is not necessary for these documents to be original, apostille, or certified, but it is a good idea to make sure that any foreign language documents have a good, certified English translation.
- Save for an Emergency Fund: Start saving now for an emergency fund. This can be used to cover your family's basic needs, pay an immigration bond, and/or to hire an attorney.
- Signed Attorney Consent Form: In case you need to hire an attorney, download and sign a Form G-28 consent form (available at: https://www.uscis.gov/sites/default/files/document/forms/g-28.pdf). Sign on page 3 where it says: "Signature of Client." Keep the signed document with your important information. You do NOT need to hire an attorney now to take this step. Instead, if you are detained, your family takes it with them when they contract an attorney. In an emergency, an attorney will need a signed G-28 to prove that you consent to be represented by them in order to ask questions and get answers about where you are and whether you are eligible to fight your case or be released. If you are being processed, transported, or detained, getting your signature on a form can take days. Having a signed G-28 that your family can get to an attorney will make it easier for an attorney to get information more quickly. If you do have an attorney, then you have probably already done this with them.
- Create a Family Defense Plan: There are many factors to consider when thinking about how best to protect your family including child custody, access to bank accounts etc. Here are some family defense planning guides to assist you in thinking through these issues and preparing the necessary documents:
    - Florence Project (Arizona specific): English here, Spanish here.
    - Immigrant Legal Resource Center: English here, Spanish here.

Last updated: December 12, 2024.

FAQs Family Defense Planning

This document provides general legal information about family defense planning for immigrants in Arizona[1] (for other topics please click tab on left). Every question in this document has been prepared and reviewed by three local attorneys. While we strive to keep all information up-to-date, the information featured here may change or become outdated as new laws and court decisions go into effect.

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Have another question on this topic? Submit your question here.

1. I want to notarize power of attorney, but I don't have any ID from the state, what other IDs are acceptable to notarize documents?

The following IDs are acceptable to notarize documents in Arizona:

- Unexpired driver's license issued by a state or territory of the United States
- Unexpired U.S. passport
- Unexpired armed forces identification card
- If the person is in jail/prison, an inmate identification card or any form of inmate identification
- Other unexpired identification card issued by the United States or state or tribal government. Must include photo, signature, and physical description.
- Unexpired consular identification card issued by foreign government with biometric identity verification.

If you (or someone else) do not have one of the identification documents listed above, there are three ways to still get a document notarized.

1) Go to a notary that knows you personally. If the notary knows you personally and well enough to know your identity with reasonable certainty, they can notarize your document without a valid ID.
2) Credible person/witness: If you have a friend/family member/colleague who knows you personally and knows your identity, this friend/family member/colleague can serve as a credible person/credible witness for your signature if:
    a) They know a notary. If they personally know a notary who knows their identity, they can go with you to the notary and sign under oath affirming that you have the identity you claim to have. OR

[1] The responses in this document are specific to Arizona law. Other states may have different requirements.

b) If they have the required documentation list above to have their signature notarized. If so, they can take their documentation to the notary and then sign under oath affirming that you have the identity you claim to have.

NOTE: The person requiring the notarization must still be present at the notary's office and must still sign in front of the notary.

Last updated: December 11, 2024.

2. Does my comadre need legal status if I want to give her power of attorney of my children in case of emergency?

Under Arizona law, the person chosen to receive parental power of attorney (e.g. comadre) must be an adult (18 years or older) and be willing to accept temporary authority over your children. The person chosen is <u>not</u> required to have immigration status.

However, if the person chosen to receive parental power of attorney does not have legal status, there are certain risks/drawbacks:

a. They, too, could be picked up by police, border patrol, ICE etc. If so, the children in their care as a result of the parental power of attorney would not have anyone else to care for them and could end up in DCS custody.

b. A child can only visit their parent in immigration custody if they are accompanied by an adult age 18 or older with legal status. If the person chosen for the parental power of attorney does not have legal status, they would need to find someone else to accompany the children to detention. If no one is available, this might prevent the children from visiting their parent in detention.

Last updated: December 11, 2024.

3. Where should I keep/share my power of attorneys? Schools? Home files? Comadre who will execute it? All?

It is recommended that at least **three ORIGINAL copies** of any power of attorney are executed (meaning three should be signed and stamped by a notary). Make sure all your powers of attorney are up-to-date and valid (see note below on validity).

It is recommended that you:

1. Keep one original of all powers of attorney in a family defense folder in your house (or if you live alone with another family member/friend). Make sure another family member/friend knows where this folder is and can access it in case of an emergency.

2. Keep one original of all powers of attorney in your car's glove box (or on your person if you do not have a vehicle). If you are stopped by the police, border patrol, or ICE, tell

them that you have a parental power of attorney permitting another person to take care of your children. Show them the document and demand (again and again, if necessary) your right to make a phone call to this person so that your children can be protected and not taken by DCS. **TIP:** In case your phone is taken away, be sure to memorize this person's number.

3. Give the third original power of attorney to the person who is named in the power of attorney document. If/when it becomes necessary for this person to use the document, they should show the original document but should not give the original to anyone. They should make additional copies to give to others as requested.

Validity of Power of Attorney**:** Power of attorney documents are generally valid when signed. Most power of attorney documents only end if revoked, on a specific date you choose, or on the death of the person signing the power of attorney. But, a parental power of attorney which gives someone temporary power to care for your child is valid for up to six months (unless you are in the military then it is valid for 1 year). If you are executing a power of attorney for your children, it is important that you execute a three new original parental power of attorney every six months.

Last updated: December 11, 2024.