



## State and Federal Immigration Laws

The U.S. federal government holds exclusive authority to regulate immigration, including who may enter the country and under what conditions. Nevertheless, states can enact laws that impact immigrants and influence the enforcement of federal immigration laws, provided that these state laws do not conflict with federal law. This issue brief outlines current state and federal laws affecting immigration in Colorado, including immigration enforcement, the Office of New Americans, access to public services, health insurance coverage, and identification.

### Federal Immigration Enforcement

U.S. immigration policy is primarily governed by the Immigration and Nationality Act (INA)<sup>1</sup>, which provides the legal framework for visa issuance, deportation procedures, and residency. Since its enactment, the INA has been amended numerous times to address a wide range of emerging issues, including the employment of undocumented workers, detention policies, and matters related to refugees and asylum-seekers. These laws are enforced by the U.S. Department of Homeland Security (DHS), and specifically Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement (ICE).

However, under the U.S. Constitution's Tenth Amendment anti-commandeering principle, states have the authority to limit their involvement in federal immigration enforcement<sup>2</sup>. For example, in 2019, the Colorado General Assembly enacted legislation that restricts state and local cooperation with federal immigration authorities by prohibiting law enforcement officials from arresting or detaining an individual based on an ICE detainer request. Employees of the Colorado Judicial Department's Division of Probation Services are also barred from sharing probationers' personal information with federal immigration authorities<sup>3</sup>.

Additionally, state and local governments are prohibited from entering into or renewing contracts with the federal government regarding immigration detention facilities or collaborating with private entities that operate such centers<sup>4</sup>. In 2024, the Colorado Court of Appeals upheld these laws after a county sheriff unlawfully entered into an agreement with federal immigration authorities to detain undocumented immigrants in jail<sup>5</sup>.

### Office of New Americans

In 2021, [the Colorado Office of New Americans \(ONA\)](#) was established in the Department of Labor and Employment to

<sup>1</sup> 8 U.S.C.

<sup>2</sup> U.S. Const. amend. 10

<sup>3</sup> Section 24-76.6-103 C.R.S.

<sup>4</sup> Section 24-76.7-101, et seq., C.R.S.

<sup>5</sup> Nash v. Mikesell, 2024 COA 68

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centralize state programs, initiatives, and policies aimed at promoting the economic stability and successful integration of immigrants<sup>6</sup>. Prior to the ONA's creation, immigrant services in Colorado were independently managed by various state departments. The ONA now serves as the central point of contact for immigrant-serving state agencies, private sector organizations, and the public on immigration-related issues in Colorado.

Following recommendations of a workgroup that convened in the fall of 2021, the Colorado Refugee Services Program, which oversees and coordinates public and private resettlement resources for refugees in Colorado, was transferred from the Department of Human Services to the ONA<sup>7</sup>. In 2024, the Welcome, Reception, and Integration Grant Program was established in the ONA to award grants to community-based organizations that provide culturally and linguistically appropriate navigation of state services to migrants within one year of arrival in the United States<sup>8</sup>.

The ONA administers several other programs such as the Integration of International Medical Graduates Program, the Benefit Recovery Fund, and the Immigration Legal Defense Fund.

## State Public Services

Federal law restricts some legal immigrants and all undocumented immigrants from accessing federal public benefits, such as Medicaid, the Supplemental Nutrition Assistance Program, and Supplemental

Security Income, based on their legal status, date of entry into the United States, and other eligibility criteria<sup>9</sup>. However, states have the power to independently manage certain public benefits, so long as these benefits are funded by state resources and not by federal funds.

In 2021, the Colorado General Assembly extended eligibility for state and local benefits to individuals without lawful immigration status<sup>10</sup>. As defined under federal law, these benefits include, but are not limited to, grants, contracts, loans, professional or commercial licenses, retirement benefits, welfare and food assistance, health care, disability benefits, public or assisted housing, postsecondary education, and unemployment benefits<sup>11</sup>.

## State Health Insurance

Federal law allows states to offer medical assistance to certain immigrants during medical emergencies, known as Emergency Medicaid Services (EMS). EMS provides limited medical coverage to individuals who qualify for Medicaid regardless of immigration or citizenship status. In addition to EMS, Colorado has introduced two programs that offer comprehensive health insurance to immigrants. The [OmniSalud](#) program provides low-income undocumented residents and Deferred Action for Childhood Arrivals (DACA) recipients with access to low- and no-cost health insurance plans<sup>12</sup>. Additionally, a new program set to launch in January 2025 will expand full health insurance coverage to low-income pregnant individuals and children

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<sup>6</sup> Section 8-3.7-101, et seq., C.R.S.

<sup>7</sup> Section 8-3.7-108 C.R.S.

<sup>8</sup> Section 8-3.7-201, et seq., C.R.S.

<sup>9</sup> 42 USCS §§ 601 et seq.

<sup>10</sup> Section 24-76.5-101, et seq., C.R.S.

<sup>11</sup> 8 USCS § 1621

<sup>12</sup> Section 10-16-1201, et seq., C.R.S.

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who would otherwise be eligible for Health First (Colorado’s Medicaid program) or the Child Health Plan Plus (CHP+) but for their immigration status<sup>13</sup>.

## Identification and Licensure

Federal immigration law does not address a variety of other immigration-related issues, which fall to individual states to determine. One such area is identification and licensure for undocumented immigrants. In Colorado, state law permits the issuance of driver’s licenses or identification cards to individuals who are not lawfully present in the United States under certain circumstances<sup>14</sup>. In 2024, Colorado removed several requirements for obtaining these documents and simplified the proof of residency requirements for applicants<sup>15</sup>. Additionally, in 2021, the Colorado General Assembly repealed the requirement for state agencies to verify the lawful presence of individuals when issuing or renewing licenses, certificates, or registrations to practice a regulated profession. Applicants must still fulfill all other criteria as regulated in law, such as examinations, continuing education, disciplinary records, and more<sup>16</sup>.

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<sup>13</sup> Senate Bill 22-1289

<sup>14</sup> Section 42-2-501, et seq., C.R.S.

<sup>15</sup> Senate Bill 24-182

<sup>16</sup> Senate Bill 21-077