

News & Insights

Tulsa Attorney Taylor Wewers for the Journal Record - Oklahoma Immigration Law Faces Justice Department Challenge

May 30, 2024

By: Taylor Wewers Bagby

The Journal Record

https://journalrecord.com/2024/05/gavel-to-gavel-oklahoma-immigration-law-faces-justice-department-challenge/

Oklahoma joins Texas, Florida, Georgia, Tennessee, and Iowa as the most recent state to face a lawsuit from the United States Department of Justice.

Oklahoma House Bill 4155, set to take effect on July, 1, 2024, criminalizes "impermissible occupation" and grants law enforcement the authority to arrest and detain non-citizens who enter the State of Oklahoma without permission. Specifically, violators of the law will face a misdemeanor which is punishable by up to a year in jail upon their first offense, and a felony charge for any conviction thereafter. The felony conviction will carry a fine of $1,000.00 and a sentence of up to two years in county jail. Upon being released from jail on either offense, the convicted person will have three days to leave the State of Oklahoma or face an additional felony charge.

The Department of Justice initiated a lawsuit against the State of Oklahoma in the United States District Court for the Western District of Oklahoma on May 21, 2024.

Proponents of the legislation argue the law protects the citizens of the state from potential harm caused by the significant influx of non-citizens to the state. Supporters fear the increase in individuals unlawfully entering the country and settling in Oklahoma could place a strain on state and local resources and result in an increase in crime. Immigrant advocates are concerned the law would result in racial profiling and the targeting of minorities regardless of their citizenship status. The law's fate, however, will rest on whether the effort to police immigration by a state encroaches on authority that belongs exclusively to the federal government.

The Supremacy Clause of the United States Constitution preempts state and local governments from enacting legislation in areas where conflicting federal law exists or where Congress has asserted its exclusive authority. If the District Court determines the law conflicts with existing federal law or involves a field that is exclusively governed by the federal government, it will be unenforceable unless and until the

State is successful on appeal to the Tenth Circuit Court of Appeals.

It is possible that one or more of the lawsuits brought in states that enacted similar immigration laws will be appealed to the United States Supreme Court prior to the Oklahoma law being considered by the Tenth Circuit—negating the need for further litigation on the issue.

Attorneys

- Taylor Wewers Bagby