

Dueling Policies: State immigration policy is driven by local concerns

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PHOENIX, AZ — Iris Martinez and Russell Pearce have never met, but they might be surprised to learn what they have in common.

Both are state senators and well-known political figures – Martinez in Illinois and Pearce in Arizona. Both have sponsored landmark legislation dealing with immigration. Both have personal histories that illuminate the convictions they hold so strongly.

There also are many ways in which they differ.

Pearce is a white man, and Martinez is a Hispanic woman. She is the daughter of immigrants; Pearce has deep roots in the United States. They have had starkly different experiences with immigration and hold radically different political beliefs.

Pearce calls the employment of undocumented workers “treason.” Martinez says denying people jobs is depriving them of a basic human right.

While America waits for the Obama administration to address immigration reform on a national scale, these two politicians have taken one aspect of immigration policy into their own hands by sponsoring state laws that regulate the use of E-Verify, the federal program that allows employers to check the immigration status of employees.

Secretary of Homeland Security Janet Napolitano continues to support nationwide use of E-Verify. In her fiscal year 2011 budget request, she asked that \$103 million be set aside to enhance the program. Meanwhile, it’s up to the states how closely they want to embrace the program.

Illinois and Arizona have taken vastly different approaches to the E-Verify program, in part because of immigration experience in the two

states but also because of the personal histories of the legislators who have championed their state's laws.

Dueling Laws

Pearce, a Republican, says E-Verify is a vital tool for combating illegal activity. Martinez, a Democrat, says E-Verify leads to discrimination against immigrants who are legal and should be allowed to work.

Pearce is the author of the Legal Arizona Workers Act, which is intended to ensure that businesses in the state do not knowingly employ illegal immigrants. The act went into effect on Jan. 1, 2008, and mandates that all businesses use E-Verify to check the legal status of new hires. As of July 2009, more than 50,000 Arizona businesses were enrolled in the program, the most of any state in the country.

Just a few months before the Arizona law went into effect, the original Right to Privacy in the Workplace Act was passed in Illinois. Sponsored by Martinez, the act prohibited the use of E-Verify until the system was 99 percent accurate. E-Verify came up just shy of that with a 94.2

percent accuracy rate in a September 2007 study commissioned by the Department of Homeland Security. The accuracy rate has since improved by 2 percentage points, according to DHS.

But before the act could take effect, DHS sued Illinois, and the state agreed not to enforce the ban until the lawsuit was resolved.

An amended version of the law took effect in Illinois on Jan. 1, 2010. It allows business owners to use E-Verify only after undergoing training and consulting with the Illinois Department of Labor for information about the accuracy of the program. Business owners also are required to post information for employees and job applicants on how to file a complaint.

As of July 2009, more than 21,000 businesses in Illinois were enrolled in the program, the fifth-largest enrollment among all the states.

The E-Verify Argument

In separate interviews in Chicago and Phoenix, Pearce and Martinez made it clear that their approaches to immigration are as different as the Sonoran Desert and Lake Michigan.

“E-Verify is the greatest program that’s ever been invented for those who care about not hiring illegal folks,” Pearce said. “We will no longer tolerate those folks being deceitful and competing unfairly against the honest employer. “Cheap labor benefits the businesses only, not the citizen. It’s profits over patriotism.”

Pearce flatly rebuffed one of the main arguments against strict employer sanctions – that immigrants are needed to do the jobs Americans won’t. There is no job an American won’t do, he said, and with Arizona’s high unemployment rate, jobs cannot be sacrificed for those here illegally.

Martinez sees it differently.

E-Verify, she said, is a direct strike at the immigrant community because foreign-born citizens are much more likely than natural-born citizens to get flagged by the system, even though both have equal legal status. And that can result in lost wages, promotions and jobs.

Martinez also worries that paperwork delays at the Social Security Administration can prevent immigrants from receiving proper documentation prior to employment.

“Our biggest concern (was that) people were going to start losing jobs or not being able to qualify for a job or not be considered because someone’s last name was inputted incorrectly,” she said. “One letter can change your name, and one number can change a Social Security account.”

An Emotional Issue

Martinez’s and Pearce’s views on the E-Verify system are as different as their life experiences and the people and places they represent.

Lisa Magana, political scientist and associate professor at Arizona State University's Transborder Chicano and Latino Studies Department, has spent her career researching immigration and politics.

“Immigration policies are highly, highly, highly influenced by popular sentiment,” she said. “Studies show that when it comes to immigration, people are highly emotional; they have an opinion that’s based on their own experience.”

Magana believes that immigration policy reflects personal ideologies and experiences because immigration is closely tied to geography and community. Individual communities are apt to view the federal government as being out of touch, she said. They think: “We’re better able; we know who lives here; we see how our community has changed.”

With all the bickering among national leaders over immigration policy, local decision-making seems to make even more sense.

Place and personal experience rule the day.

Arizona at the Center of the Storm

As a border state, Arizona has become a testing ground for state legislation that targets illegal immigration and ground zero for the broader national debate.

In 2008, the Pew Hispanic Center estimated that undocumented immigrants made up 7 percent to 8 percent of Arizona’s total population, compared to the national average of four percent.

Pew also found illegal immigrants made up 10 percent of Arizona’s labor force, double the national average.

Still Arizona’s struggle with illegal immigration is relatively new. The Mexico-California border used to be the favored crossing for illegal immigrants up until about 1994, when the Clinton administration pumped up border security there, pushing illegal immigrants into the harder-to-secure Arizona desert. At the same time, residents grew more

concerned about drug violence and human smuggling. In 2005, former Gov. Napolitano declared a state of emergency for four Arizona border counties, releasing money to help curb illegal immigration and Mexican drug cartel activity. And the Phoenix Police Department created a special unit just to deal with kidnappings.

Arizona is now the eighth most violent state in the nation based on the number of arrests for six categories of violent crime, according to a Congressional Quarterly Press analysis.

Pearce believes increased crime is a direct result of illegal immigrants and drug smugglers who use the Arizona border as a port of entry and Phoenix as a distribution route.

Pearce, who represents the conservative stronghold of Mesa, had a long career in law enforcement before entering politics. He served with the Maricopa County Sheriff's Office from 1970-93, where he rose to the rank of chief deputy. A biography on his campaign Web site proudly proclaims that he is a fifth-generation Arizonan.

Pearce was elected to the state Senate in 2008 after an eight-year stint in the state House of Representatives, during which he championed a tough stance against illegal immigrants.

He has pushed for bills that would require school districts to collect data on students who can't prove legal residency and require applicants for public housing to prove legal status. He sponsored another bill called the Support Our Law Enforcement and Safe Neighborhood Act, which would make undocumented immigrants in Arizona guilty of trespassing and subject to arrest and prosecution under state law. The bill was approved by the Senate in February and sent to the House.

Pearce and his former boss, Maricopa County Sheriff Joe Arpaio, are often accused of using heavy-handed or even unconstitutional measures in their zeal to crackdown on undocumented immigrants.

Pearce dismisses such criticism.

“I don’t want a police state; I want the current laws enforced without apology,” he said.

In an interview, Pearce also spoke candidly about how personal immigration issues can get.

Five years ago, while debating immigration at the Brookings Institution in Washington, Pearce said he received distressing news.

“I was handed a note to call home immediately,” he recalled. “I stepped down from the podium; I called my wife, who told me that our son was critically wounded and being airlifted to a hospital.”

As he prepared to leave Washington, Pearce learned that his son, Sean Pearce, then a Maricopa County deputy sheriff, had been shot in the line of duty.

“He was shot by an illegal. My son was shot in the chest by someone with a homicide warrant already.”

According to news reports, Sean Pearce was executing an arrest warrant with his partner Deputy Lew Argetsinger when he was shot. He was airlifted to the Maricopa Medical Center in Phoenix, where he had surgery to remove part of his large intestine.

His father was present for the trial of the suspect, which took place after Sean’s recovery.

“The illegal alien said in trial, ‘I was just looking for a better way of life,’” Pearce said. “He came to America running drugs, killing someone in the drug trade and shooting my son, just ‘looking for a better way of life.’”

The shooting of his son made Pearce an even more ardent advocate of measures to reduce illegal immigration.

“How many people have to die before we enforce our laws and secure our borders?” he asked.

Neither does he have any sympathy for employers who knowingly hire illegal immigrants. “To me, it’s treason,” he said.

If anything, he thinks the state penalties against employers who hire illegal immigrants aren’t stiff enough. The state’s employer sanctions law says a first offense can result in a business license suspension of 10 days or longer. A second offense within three years can result in a license revocation. To date, only two employer sanctions cases have been brought against Arizona businesses and one, the now-defunct Waterworld amusement park in Phoenix, has lost its license.

A Human Right

There is a long history of immigrants moving to Illinois and to Chicago, in particular. The city’s status as a large commercial center fed by sprawling agricultural hinterland has long made it a destination for workers.

In just one 10-year period, between 1990 and 2000, Chicago’s foreign-born population increased by 60 percent, according to the Pew Research Center or People and the Press.

In another study, conducted in May of last year, the Immigration Policy Center reported that one out of 10 voters in Illinois is an immigrant or a child of immigrant parents.

Chicago, despite a history of intermittent racial discord, has become the quintessential American melting pot, a place where many immigrants find more tolerance than tension.

The Illinois All Kids Plan, passed in 2005, offers health insurance to all children, including the undocumented. The insurance plan covers doctor visits, hospital stays, prescriptions, vision care, dental care and eyeglasses as well as immunizations and special services.

Illinois also is one of 10 states that allow high school graduates to apply for in-state college tuition regardless of immigration status.

Martinez, the state senator who sponsored the original version of the bill that would have banned E-Verify, represents a diverse district in eastern Chicago. About 60 percent of its residents are Latino.

A Chicago native, Martinez was the first Hispanic woman to be elected to the Illinois Senate. She also was the first Latina to be named assistant majority leader.

Martinez's parents immigrated to the United States from Puerto Rico. Although Puerto Rico is a U.S. territory and its people are citizens, she said her family faced discrimination in Chicago.

“(We were) treated here like the undocumented because my parents didn't speak any English; they only spoke Spanish,” she said. “They came to work in the factories that were here. We are U.S. citizens, but we've gone through the same adversities being treated differently because of the color of your skin (and) and because of your last name.”

Hers was one of three Latino families whose children attended private school, and she remembers being taunted and chased home almost every day by the other children.

Like Pearce in Arizona, Martinez's experiences have shaped her approach to immigration policy.

“A lot of the experiences that I went through, that my mom and my family went through, coming here from Puerto Rico, I've taken all this with me to the state Senate, where a lot of the things I do legislatively are based on experiences I've had within the community, within the systems,” she said. “I'm a product of the neighborhood, but now being the voice of the neighborhood, that is who I am.”

Martinez said she understood when she sponsored the original Right to Privacy in the Workplace Act that it would, in effect, shut down the E-Verify system in Illinois.

“In the bill we said we wanted something that was 99 percent flawless, and, of course, no system is (that) accurate,” she said.

She also wanted to keep the federal agencies that maintain E-Verify ‘on their toes’ about correcting database flaws.

“We felt that when it came to people’s livelihoods, we have to be much more accurate with the information,” Martinez said.

While she believes that the Department of Homeland Security has improved the system partly because of the concerns raised by the state of Illinois, “E-Verify is not a very dependable system quite yet,” she said.

And predictably, that’s another point on which she and Pearce disagree.