

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: January 22, 2021

TO: Honorable Members of the Los Angeles City Council

FROM: Sharon M. Tso *Ivanisa Sobalvarro - rg For*
Chief Legislative Analyst

Council File No.	20-0419
Assignment No.	20-04-0430

SUBJECT: Federal Assistance Gaps and Resources for Undocumented Immigrants

SUMMARY

On March 22, 2020, the City Council adopted Motion (O'Farrell, Martinez-Rodriguez; C.F. 20-0419) which instructs this Office, with the assistance of the City Attorney and the Housing and Community Investment Department (HCID), to review the Families First Coronavirus Response (Families First) Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and report with recommendations on how the City can address any federal assistance gaps and resources for undocumented immigrants. In response to the Council instruction, this report includes an overview of the following: 1) federal coronavirus legislation (the Families First Act and the CARES Act) and service gaps for undocumented immigrants; 2) the State Disaster Relief Assistance for Immigrants (DRAI) Project which provided unemployment benefits for undocumented immigrants; 3) existing City initiatives that fill some of the service gaps for undocumented immigrants; 4) outreach efforts; and, 5) community-based organizations offering assistance to sidewalk vendors. This report also includes recommendations relative to improving community outreach efforts for undocumented immigrants.

Subsequent to Council adoption of the motion, on December 27, 2020, the federal government enacted the Consolidated Appropriations Act, 2021 (H.R. 133) which includes \$900B in coronavirus relief and is part of a larger \$2.3T spending bill. This legislation extends and modifies several provisions enacted in the CARES Act that now provide assistance to mixed-status families who were previously ineligible for assistance. A brief summary is provided in the report.

On January 14, 2020, President-elect Joseph Biden proposed the American Rescue Plan which includes \$1.9T in funding to continue to provide financial assistance to individuals, small businesses, and state governments impacted by the COVID-19 pandemic. At this time, the proposal is still in the early stages of the process and it is unclear what the eligibility requirements will be. This report includes a brief summary.

In addition, at the request of the author of the motion, this report includes information relative to immigrant rights commissions in other cities (Attachment 1). Lastly, we have also included a review of an article by the New England Journal of Medicine (NEJM) which provides an overview of the disparities and challenges faced by undocumented immigrants by the exclusion from federal assistance efforts intended to help those impacted by the COVID-19 pandemic (Attachment 2).

Despite the funding provided by the federal government to assist individuals, the one-time unemployment benefit provided by the State, and City efforts to mitigate the economic impact of the COVID-19 pandemic, funding gaps continue to exist for undocumented immigrants, who were excluded from nearly all forms of federal cash assistance. While the City's programs did not exclude undocumented immigrants from receiving assistance, there is no data at this time that shows the participation rate of undocumented immigrants.

RECOMMENDATIONS

That the City Council instruct:

- 1) The Civil, Human Rights, and Equity Department to report with recommendations on methods to improve the City's outreach efforts for undocumented immigrants including strategies to: 1) strengthen the City's outreach efforts that result in increased participation of undocumented immigrants in the City's programs and services; and, 2) develop data and metrics that measure the efficacy of City safety net programs and services with respect to undocumented immigrants.
- 2) Instruct the Chief Legislative Analyst to monitor the Biden Administration proposed American Rescue Plan and any future coronavirus relief bills as they progress through the federal legislative process, and report to Council with any changes in eligibility with respect to undocumented immigrants.

Federal Coronavirus Legislation

In response to the COVID-19 pandemic, the federal government enacted legislation to provide funding to State and local governments, hospitals, corporations and small businesses, and individuals, to mitigate the public health and economic impact. Two specific laws that provided funding for this purpose were the Families First Act and the CARES Act. However, the CARES Act which included \$2.3T in funds, largely excluded undocumented immigrants. Below is a brief overview of the Families First Act and the CARES Act, followed by major policy areas of the CARES Act that excluded undocumented immigrants.

Families First Act

The Families First Act was enacted on March 18, 2020, and included approximately \$104B in funding.¹ The major provisions of this bill include: 1) a requirement for private health insurance plans to cover COVID-19 testing; 2) enhancement of unemployment insurance 3) expanded food security initiatives; and 4) paid sick leave at an employee's full salary. While not all provisions of this law directly excluded undocumented immigrants, the complexity of safety net programs in how services are delivered may have disproportionately affect undocumented immigrants. An overview of the NEJM, included in Attachment 2 of this report describes some of the challenges currently faced by undocumented immigrants.

The City Council requested clarification on whether the Families First Act Emergency Paid Sick Leave provision was applicable to undocumented workers. According to the Center for Law and Social Policy (CLASP) and the National Immigration Law Center (NILC), the Families First Act provides some private sector and government employees up to 10 paid sick days and up to 10 weeks of paid family and medical leave. For employers with existing paid leave policies, the paid sick time is in addition to any existing leave. An employer cannot require employees to use their existing accrued leave before using this emergency leave. This benefit is available for employees working for private employers with less than 500 employees regardless of immigration status.²

These paid sick leave provisions were in effect from April 1, 2020 to December 31, 2020. According to NILC, as of April 1, 2020, any employee, regardless of work hours or length of service with the employer, was immediately eligible for emergency paid sick leave. Federal coronavirus legislation enacted in December 2020 did not extend emergency paid leave but instead allows employers to claim a payroll tax credit for providing emergency paid sick leave for employees until March 31, 2021. This is further discussed under the section titled Consolidated Appropriations Act 2021 in this report.

¹ <https://www.govtrack.us/congress/bills/116/hr6201/summary>

² <https://www.clasp.org/publications/fact-sheet/paid-sick-days-and-paid-leave-provisions-ffcrs-and-cares-act>

Because sick leave is paid directly to employees by their employers in the same way wages are paid, there is generally no involvement with government agencies unless an employee decides to file a claim alleging violations of a paid sick leave law. According to the NILC, the emergency paid sick leave provisions in the Families First Act is enforced by the Wage and Hour Division of the U.S. Department of Labor, which does not inquire into workers' immigration status in conducting its enforcement activities.

Undocumented workers generally have the same wage and hour rights as other workers. The same federal and California wage and hour laws that apply to authorized workers generally apply to all workers irrespective of immigration status. This includes the right to a minimum wage, overtime pay, breaks, tips, and other forms of wages.³ Undocumented immigrants do not qualify for federal unemployment insurance.

CARES Act

The CARES Act was enacted on March 27, 2020 and included \$2.3T in funding to assist small businesses and corporations, hospitals, governments, and individuals. Below is a brief overview of the various forms of assistance included in the CARES Act followed by major policy provisions that directly or indirectly exclude undocumented immigrants.

- \$1,200 for individuals with incomes of \$75,000 a year or less.
- \$600/week in unemployment benefits.
- \$100B to hospitals and health providers.
- \$500B for loans and grants for businesses, states and municipalities.
- \$32B in grants to the airline industry, and more.

CARES Act: Paycheck Protection Program (PPP)

The CARES Act provided grants and loans to small businesses under the Paycheck Protection Program and Economic Injury Disaster Loan, which are administered by the Small Business Administration (SBA). The SBA is the federal agency responsible for issuing small business loans and grants, and requires the applicant to certify that they are not in violation of any U.S. laws. Undocumented immigrant business owners, who would otherwise qualify for such loans and grants, could find themselves facing criminal and/or civil charges for submitting an application under this program. This requirement discourages, and could potentially criminalize, undocumented immigrant business owners from obtaining such funds.

CARES Act: Recovery Rebate

The CARES Act provided taxpayers with a Recovery Rebate, which was intended to protect families and individuals from the public health and economic impacts of COVID-19. Individuals were eligible for up to \$1,200 per adult and up to \$500 for each of the adult's children under the age of 17. However, taxpaying undocumented immigrants, people who use an Individual Tax Identification Number (ITIN) to file taxes, married couples where at least one spouse lacks a Social Security number, and U.S.-born children where at least one parent lacks a Social Security number, were all excluded from this benefit.⁴

Undocumented immigrants generally cannot obtain Social Security numbers and instead file their tax returns and pay their taxes using an ITIN. As a result, U.S. citizen children of undocumented immigrants

³ <https://legalaidatwork.org/factsheet/undocumented-workers-employment-rights/>

⁴ Section 6428 of the CARES Act provides that an "eligible individual" means "any individual other than (1) any nonresident alien individual." This is the case irrespective of whether the individual has dependents who are U.S. citizens, and as a result, dependents are not eligible to receive benefits either.

do not receive the benefits of the \$500 economic stimulus payments even when the children themselves possess a Social Security number and their parents pay taxes.

U.S. citizen children and spouses in mixed-status families also did not qualify for a Recovery Rebate. Other federal programs provide benefits to all eligible U.S. citizen children regardless of their parents' immigration status, such as the child tax credit, the Supplemental Nutrition Assistance Program (SNAP), and Women, Infants, and Children (WIC) program.

Several lawsuits have been filed by different entities challenging the provisions in the CARES Act that resulted in inequities and discrimination of undocumented immigrants and their U.S. citizen spouses and children.

On April 28, 2020, the Mexican American Legal Defense and Education Fund (MALDEF) filed a lawsuit against the U.S. Secretary of the Treasury arguing that although the recovery payments are intended to protect the American people from public health and economic impacts of COVID-19, the CARES Act excluded married couples where one spouse lacks a Social Security number. MALDEF states that Section 6428 of the law, through a combination of provisions, excludes otherwise qualified individuals from receiving the CARES Act recovery payments solely because their spouses lack Social Security numbers.⁵

On May 5, 2020, a group of minors and their parents filed a lawsuit against the Secretary of the Treasury in the United States District Court for the District of Maryland, arguing that the CARES Act discriminates and excludes U.S. citizen children of undocumented immigrants.

CARES Act: Unemployment Insurance

The CARES Act included an enhancement of \$600 in federal unemployment benefits for individuals who were already receiving State unemployment insurance. Pursuant to federal law, Unemployment Insurance (UI) provides periodic payments to eligible workers who are unemployed through no fault of their own and are looking for work. The amount that workers receive depends on the wages a worker earned during a “base period.” Although this varies from state to state, the base period generally covers the past year to 18 months of work. Under current state and federal systems, undocumented workers are not eligible for unemployment benefits.

However, the \$600 benefit is available to individuals with a valid work permit and a Social Security number, including people who have filed an application for an adjustment of immigration status, applicants for asylum, Deferred Action for Childhood Arrivals (DACA) recipients, and Temporary Protected Status (TPS) recipients.

The recently enacted Consolidated Appropriations Act, 2021 extends unemployment benefits but undocumented immigrants do not qualify.

CARES Act: Education

According to the Wallace Foundation, which is dedicated to the enrichment of disadvantaged children, the CARES Act included more than \$30B for K-12 and higher education programs; over \$4B for early childhood education; and other support such as forgivable loans to non-profits and providers of afterschool or summer programs.

⁵ <https://www.maldef.org/wp-content/uploads/2020/04/Amador-Complaint-093111051698-1.pdf>

The Secretary of Education released the application for states to receive K-12 funding from the Education Stabilization Fund. According to the Center on Budget and Policy Priorities, the State of California received \$1.7B for K-12 education, \$1.7B for colleges and universities, and \$369M in emergency relief funds for a total of \$3.8B.⁶

On May 20, 2020, members of Congress issued a letter noting that the CARES Act requires local education agencies to use a portion of those funds to provide services to low-income students attending private schools in the same manner that services are provided in public schools. The letter further notes that the Secretary of Education diverged with statutory requirements of the CARES Act by directing local education agencies to use emergency relief funds for the provision of services to students at private schools regardless of income or place of residence.⁷ This could result in less funding available for services for low-income students which could further impact undocumented students. According to the Center for Immigration Studies (CIS), in Los Angeles County, the poverty rate for legal immigrant and undocumented students is 50 percent higher than native-born students. CIS also reports that of students in poverty, 70 percent are from immigrant families (28 percent undocumented families).⁸

Consolidated Appropriations Act, 2021 [Including Coronavirus Stimulus & Relief]

On December 27, 2020, the federal government enacted the Consolidated Appropriations Act, 2021 (H.R. 133) which includes \$900B in coronavirus relief and is part of a larger \$2.3T spending bill. This legislation extends and modifies several provisions enacted in the CARES Act that now provide assistance to mixed-status families who were previously ineligible for assistance.

Under this legislation, U.S citizens and legal permanent residents qualify for \$600 in direct assistance, even if they previously filed their taxes jointly with an undocumented spouse. Families also qualify for an additional \$600 for each dependent child.

These provisions are retroactive and mixed status families who were previously excluded will now qualify if least one household member has a Social Security number. These families will be retroactively also eligible for \$1,200 per household and \$500 per child as previously allocated by the CARES Act. Eligible families who did not receive a payment in the first round because one spouse lacked a Social Security number can claim a credit for that payment in their 2020 federal tax return.

Undocumented immigrants and other non-citizens who do not have a Social Security number are ineligible for assistance. U.S. citizen children where both parents are undocumented and neither has a Social Security number do not qualify for this assistance if at least one parent does not have a Social Security number.⁹ DACA and Temporary Protected Status (TPS) beneficiaries have access to Social Security numbers and, therefore, qualify.

American Rescue Plan – Biden Administration Legislative Proposal

On January 14, 2020, President-elect Joseph Biden proposed the American Rescue Plan which includes \$1.9T in funding to continue to provide financial assistance to individuals, small businesses, and state governments affected by the COVID-19 pandemic. To be enacted, the plan requires approval from both chambers of Congress, and a final signature from the President.

⁶ <https://www.cbpp.org/research/state-budget-and-tax/how-much-will-states-receive-through-the-education-stabilization-fund>

⁷ <https://edlabor.house.gov/imo/media/doc/2020-5-20%20Ltr%20to%20DeVos%20re%20Equitable%20Services.pdf>

⁸ <https://cis.org/Camarota/Immigration-Elephant-Room-LA-School-Strike>

⁹ National Law Review. January 7, 2021.

The American Rescue Plan extends some aspects of the CARES Act and the Consolidated Appropriations Act 2021 while also creating new recovery strategies. President Biden's proposal states that "...it will also expand eligibility to adult dependents who have been left out of previous rounds of relief and all mixed status households." At this time, guidelines for President Biden's proposal are not yet available. Additionally, two motions (Martinez-O'Farrell; C.F. 21-0029) and (Martinez-O'Farrell-Raman-Bonin; C.F. 21-0042), introduced January 2020, instruct staff to review and analyze the \$900B included in the Consolidated Appropriations Act, 2021 and to break down by categories, including the any funds for rental assistance.

Our Office will continue to monitor the Biden proposal and any future coronavirus relief bills as they progress through the federal legislative process, and report to Council with any changes to eligibility requirements with respect to undocumented immigrants.

The City Council may wish to support legislation requesting Congress and the Biden Administration to include assistance for undocumented immigrants and U.S. citizen children of undocumented immigrants in any future coronavirus legislative proposal.

State Disaster Relief Assistance for Immigrants (DRAI) Project

The California Department of Social Services (CDSS) administered the DRAI Project which provided a one-time disaster relief cash assistance to undocumented adult immigrants impacted by COVID-19, and who are ineligible for other forms of pandemic assistance. The application process started in May 2020 and closed June 30, 2020. All funds have been distributed. This program was funded through State General Funds.

In the Los Angeles area, the organizations selected to distribute the DRAI funds were Asian Americans Advancing Justice (AAAJ), the Central American Resource Center (CARECEN), and the Coalition for Humane and Immigrant Rights (CHIRLA).

Eligible adult undocumented immigrants received \$500 in direct assistance, with a maximum of \$1,000 per household. As of August 17, 2020, approximately \$75M was disbursed statewide and 150,000 applications approved.¹⁰ For Los Angeles and Orange County combined, 55,000 applications were approved and \$27.4M was disbursed.

CHIRLA and CARECEN report to have received over one million phone calls to inquire and apply for assistance on the first day of the program. Those agencies indicate that the volume of calls is reflective of the need for financial assistance particularly by undocumented immigrants, and the need for a stronger service delivery program.

1. City of Los Angeles Initiatives

Prior to the COVID-19 pandemic, the City Council implemented a number of measures that include protections for undocumented immigrants, as follows: 1) the establishment of the Ad Hoc Committee on Immigrant Affairs, and subsequently the standing Immigrant Affairs, Civil Rights, and Equity Committee; 2) a resolution declaring Los Angeles as a City of Sanctuary; 3) legal challenges in support of the DACA Program and to oppose the Public Charge Rule; and, 4) the establishment of the Los Angeles Justice Fund (LAJF). These initiatives have helped mitigate some of the impact caused by the COVID-19 pandemic on undocumented immigrants.

In response to the COVID-19 pandemic, the City established the following programs to assist families and individuals that have endured economic hardship, irrespective of immigration status, as follows:

¹⁰ <https://www.cdss.ca.gov/Portals/9/Immigration/COVID/DRAI-Allocations-63020.pdf>

- Angeleno Card

HCID administered the Angeleno Card, which was financed through the Mayor's Fund, to provide cash assistance to individuals facing economic hardship. HCID reports that approximately 120,000 applications were received and 37,813 Angeleno cards were issued for a total of \$36,724,000 in emergency cash assistance.

- COVID-19 Emergency Rental Assistance Subsidy Program

On June 23, 2020, the Council established the COVID-19 Emergency Rental Assistance (ERAS) Program, which allocated \$100M in CARES Act funds to assist tenants impacted by the pandemic. Through the ERAS Program, the City will provide a rental subsidy to landlords on behalf of low-income tenants, in an amount up to 100 percent of the monthly rent or \$1,000 per month for a maximum of \$2,000. Additional funds were provided through discretionary funding from several Council Offices, including Council District 3, 5, 6, 9, 10, 12, 13, and 14, for a total of \$3.1M.

As provided by Ordinance No. 186585, tenants shall have up to 12 months following the expiration of the local emergency period to repay any past due rent.

The HCID reports that the application process for the ERAS program was closed as of July 17, 2020 and that 221,089 applications were filed. HCID reports that immigration status was not considered for program eligibility and that outreach efforts were made to reach out to Los Angeles communities.

According to HCID, as of December 30, 2020, the City funded 49,123 rent subsidies totaling \$98,146,000 through the ERAS Program. Additional renters were assisted through donated funds. HCID reports that nearly 1,500 applications are completely and fully vetted, but funds have expired. The ERAS Program was the largest of its kind in the nation.

- Small Business Emergency Micro Loan Program

In March 2020, the Economic and Workforce Development Department (EWDD) implemented the Small Business Emergency Microloan Program (Microloan Program) to provide financing and technical assistance to small businesses to support operations and/or retain employees. EWDD received nearly 5,000 applications for the Microloan Program and are in various stages of review, approval, and funding. EWDD reports that over 500 microloans have been approved. EWDD reports that immigration status was not a factor considered for qualification. EWDD reports that the limited capacity to review and approve funding requests has resulted in a backlog.

- LA Regional COVID-19 Relief and Recovery Fund

Through this program, the City is providing grants to microenterprises, small businesses, and non-profit organizations in the amounts of \$5,000, \$15,000, \$25,000 and \$100,000. Approximately \$40M has been approved by the City Council for this purpose.

In addition, in September 2020, the City Council approved an allocation of \$2M, for a total of \$6M for the microenterprise category, to assist sidewalk vendors with financing their business operations (C.F. 13-1493-S11). The source of funds for this program is the Coronavirus Relief Fund.

- Utility Grant Program

In November 2020, the Department of Water & Power (DWP) launched the Utility Grant Program using \$50 million in Coronavirus Relief Funds (CRF). Low income DWP customers experiencing income loss due to the COVID-19 pandemic were able to apply for a one-time \$500 grant to help

pay their utility bills. Due to CRF guidelines, the utility assistance grant was meant to help DWP residential customers with costs associated with their gas service; cellular phone; wi-fi; and internet and cable television service.

The grant application period was from November 2 through November 22, 2020 and was designed to reach 100,000 households. As of December 30, 2020, DWP issued approximately 67,315 grants to low income households. Immigration status was not a factor in determining eligibility for this program.

Outreach Efforts

The Council and Mayor have established programs to provide assistance to the most vulnerable communities in Los Angeles impacted by the COVID-19 pandemic, including undocumented immigrants. The Mayor's Office reports that through the work of the Office of Immigrant Affairs and the Office of Public Engagement, relationships were strengthened with local organizations that work closely with vulnerable communities to reach out to all communities. Collectively, efforts were made to reach undocumented immigrants and other vulnerable populations specifically for the Angeleno Card and the ERAS Program, as described above.

The Mayor's Office reports that other programs have been launched or enhanced to assist vulnerable communities impacted by the COVID-19 pandemic. These programs include the Grocery Card Program and the L.A. Represents Program which provide legal assistance to individuals impacted by the pandemic in the areas of housing, employment, and business.

Stakeholders such as CHIRLA, CARECEN, and the Salvadoran American Leadership and Educational Fund (SALEF) state that while efforts have been made by multiple government agencies to fill in some of the service gaps for undocumented immigrants, there are no systems currently in place to determine the effectiveness of outreach efforts and to what extent undocumented immigrants have applied for government services. In order to address this need, these organizations recommend that the City establish a dedicated entity such as an immigrant rights commission, taskforce, or advisory group that is tasked with developing metrics or other methods to evaluate the effectiveness of government programs in reaching out to undocumented immigrants. This report includes recommendations instructing the Civil, Human Rights and Equity Department to report on methods to improve the City's outreach efforts for undocumented immigrants including strategies to strengthen the City's outreach efforts that result in increased participation of undocumented immigrants in the City's programs and services; and, develop data and metrics that measure the effectiveness of City safety net programs and services with respect to undocumented immigrants.

Community-Based Organizations

Due to the COVID-19 pandemic, State and local "stay at home" mandates prevented sidewalk vendors from vending in the public right of way. However, federal coronavirus assistance was not available to street vendors largely due to their immigration status. Recognizing the assistance gap, Inclusive Action, a local non-profit organization dedicated to the advocacy of sidewalk vendors, created the Street Vendor Emergency Fund to assist vendors affected by the pandemic.

Inclusive Action partnered with the United Way Pandemic Relief Fund, the Roy and Patricia Disney Family Foundation, the Office of Councilmember Curren Price, and over 150 individual donors. Collectively, Inclusive Action was able to raise over \$375,000 by which more than 740 individual street vendors have received support. The amount of each cash grant was \$400. Inclusive Action reports that there are more than 500 people who remain on the wait list.

Additional Information Requested

As requested by the author of the motion, Attachment 1 provides a review of immigrant rights commissions in other cities. This section also includes stakeholder input for a potential City of Los Angeles Immigrant Rights Commission.

To provide the Council with additional insight, as part of our research, we have included a summary of an article by the NEJM which concludes that while four coronavirus-related federal bills have been enacted to assist workers, small business owners, and some industries impacted by the COVID-19 pandemic, for the most part, the legislation excludes an estimated 11 million undocumented immigrants (Attachment 2). These immigrants also do not qualify for other federal benefits and most State safety-net programs. Immigrants, particularly undocumented immigrants, are concentrated in low-wage sectors that have been the hardest hit by the pandemic, including hospitality, food service, landscaping, and caregiving.

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Attachments: 1) Immigrant Rights Commission in Other Cities
2) Summary of the New England Journal of Medicine

Immigrant Rights Commissions in Other Cities

Subsequent to Council action, the author of the Motion requested that our Office review immigrant rights commissions in other cities. These commissions were established by ordinance and preceded by a report on the needs of the immigrant communities in each respective municipality. Below is a summary of four jurisdictions surveyed for this report:

San Francisco Immigrant Rights Commission (IRC)

The purpose of this commission is to advise the Mayor and Board of Supervisors on issues and policies related to immigrants who live or work in San Francisco. The IRC was created in 1997 when the Board of Supervisors adopted Ordinance No. 211-97. The commission consists of 15 voting members, 11 who are appointed by the Board of Supervisors and four who are appointed by the Mayor. At least eight members must be immigrants to the United States and each member of the Commission serves for a term of two years.

Seattle Immigrant Rights Commission

This commission, also established by ordinance, advises the mayor, city council, and city departments and offices on ways to enhance and improve access to city services and resources for immigrants and refugees, as well as strengthening opportunities for immigrants and refugees to participate in civic life. The commission also encourages dialogue and understanding between and among the various immigrant and refugee communities and the larger Seattle community, while advocating on their behalf.

The commission has 15 members: eight appointed by the Mayor and seven appointed by City Council. Commission members are appointed to one or two-year terms, with the option of reappointment.

King County, WA: Immigrant and Refugee Commission

In 2018, King County created the Immigrant and Refugee Commission by ordinance. This commission was established to help integrate and strengthen immigrant and refugee communities and to uphold the county's commitment as a welcoming community. This commission is comprised of 13 members and is required to be represented as follows:

- All members must be King County residents.
- Membership shall reflect gender diversity.
- At least six members from suburban cities.
- At least three members shall have had personal experiences as a refugee.
- Range of age groups, including persons representing youth issues.
- At least five members shall represent and be appointed by an immigrant-led organization serving immigrant communities and of these representatives at least three members shall represent and be appointed by a small grass-roots community-based organization that has an annual budget of less than \$250,000 that supports the needs of distinct immigrant and refugee communities and is composed predominantly of members of those communities.
- At least one member should have familiarity with King County government, systems and agencies.
- Persons representing faith-based organizations are encouraged to apply.
- No more than three members of the immigrant and refugee task force shall be appointed to the immigrant and refugee commission during the first term.

Austin, TX: Commission on Immigrant Affairs

The Austin Commission on Immigrant Affairs was established by ordinance on October 6, 2014. The number of members is consistent with the number of council members plus one. Each council member nominates one commissioner to serve on the commission, and the Travis County Commissioners Court appoints one additional member. The City of Austin currently has 10 councilmembers.

The ordinance requires that one-third of the commissioners have direct or personal experience in immigration to the United States and the commissioners are not required to be Austin residents. The purpose of the commission is to advise councilmembers on issues of interest to immigrants, in particular in the areas of health and human services, education and the demographic composition of the Austin immigrant community. The commission is required to monitor requirements of federal, state, and local immigration, welfare and other laws that affect immigrants, promote availability and accessibility of educational, economic, legal and social resources for immigrants.

Los Angeles County and City Office of Immigrant Affairs

Los Angeles County has an Office of Immigrant Affairs which has several programs in place that help fill some of the service gaps for undocumented immigrants. The purpose of the OIA is to ensure that all immigrants who live in Los Angeles County learn about and access the services the County has available for them. As a result, OIA, in close partnership with County departments, currently conducts outreach and education to inform immigrants about available County services and how they can access such services. In 2017, the County Board of Supervisors through the OIA created the Immigrant Protection and Advancement Taskforce (IPAA) to bring together public and private stakeholders to develop and implement a broad vision that supports the success of all County immigrant residents and their families. The IPAA made several recommendations to better serve the immigrant community. The OIA works closely with all Supervisors and with all County departments.

The City's Office of Immigrant Affairs is now housed in the Mayor's Office. Per Council request, the CLA, the Civil, Human Rights and Equity Department (CHRED), and the Mayor's Office are discussing the benefits of moving this office to the CHRED and will be reporting to Council with recommendations.

Stakeholder Recommendations for a Proposed City Immigrant Rights Commission

At the request of the author of the Motion, our Office reached out to immigrant rights stakeholders for input on the need for an immigrant rights commission in the City. All collectively recommend that the City establish an immigrant rights commission. In particular, the commission would service to develop recommendations by experts in the field to better measure the effectiveness of City programs and services and outreach efforts with respect to undocumented immigrants.

These organizations also acknowledge the concerns with potential actions that could inadvertently compromise the immigration status of undocumented immigrants who apply for and receive government services. For example, collecting information may obligate the collecting agency to report this information to federal immigration authorities and may discourage undocumented immigrants from seeking critical basic services. CHIRLA, CARECEN, and SALEF recommend certain actions that would help improve access, service delivery, outreach, communication, and customer service for undocumented immigrants. Below are some of the recommendations provided by these community-based organizations:

- Improve communication and translation services by strengthening networks for "hard to reach" populations, such as undocumented immigrants.
- Ensure that key City programs providing services assign individuals with the necessary language skills to effectively guide undocumented immigrants through available programs.

- Partner with immigrant rights organizations, which are considered “trusted messengers,” to engage and provide cash assistance, services, and programs to undocumented immigrants.
- Establish protocols for data collection and metrics that are needed to measure the effectiveness of outreach efforts and service delivery.
- Create an Immigrant Rights Commission that is tasked with identifying ways to improve the quality of services, outreach efforts, inclusion, and to close the service and funding gaps for undocumented individuals.

Should the Council decide to establish an Immigrant Rights Commission, stakeholders have proposed the following composition which is based on immigrant rights commissions in other cities:

- The commission should consist of 11 voting members who apply, eight appointed by the City Council by Councilmembers who represent immigrant heavy districts, and three who are appointed by the Mayor from the pool of applicants.
- At least six members of the commission must be immigrants to the United States.
- The commission must include one immigrant youth under the age of 25.
- Commissioners must be representative of the demographics of the City, including but not limited to age, gender identity, LGBTQ identify, ethnicity, and race.
- Commissioners must be individuals with lived or professional experience in the field of immigration.
- Commissioners must be committed to spending a minimum of 10 hours per month to commission work, including monthly commission meetings
- Commissioners serve for a term of two years.
- Commissioners must be compensated for their time. (please note that immigrant rights commissions in other cities were found to be volunteers).
- The commission must have an Executive Director and support staff, funded through City funds to ensure continuity of the commission.

If the City Council wishes to explore a City of Los Angeles Immigrant Rights Commission, the Council may instruct the Civil, Human Rights, and Equity Department to report on the composition and placement of a potential immigrant rights commission, and the steps necessary to accomplish this effort.

Review of the Article: *Undocumented U.S. Immigrants and COVID-19*

To provide the Council with additional insight, we reviewed an article by the New England Journal of Medicine entitled “*Undocumented U.S. Immigrants and COVID-19*.” The article, published in March 2020, provides an overview of the challenges faced by undocumented immigrants. According to the NEJM,¹¹ immigrants have faced “relentless attacks and punitive policies” under the Trump Administration, including tightening of the Public Charge Rule, threats to the Deferred Action for Childhood Arrivals Program (DACA), raids by Immigration and Customs Enforcement (ICE), asylum restrictions, and separation of families and children at the border. The article notes that the COVID-19 pandemic exacerbates an already dire situation for immigrant families, many of whom live at or below the federal poverty line.

The NEJM reports that due to the federal, State, and local orders requiring people to stay at home, a profound economic impact will be more severe for undocumented immigrants, many of whom work in service industries, such as restaurants and hotels, or in the informal economy. Many immigrants will have no income and have been excluded from the social safety net. NEJM projects that poverty will extend to the more than five million U.S.-born children who have undocumented immigrant parents. NEJM projects that recently enacted federal economic relief measures will not reach most undocumented immigrants or their families.

NEJM notes that immigrant communities are extremely diverse and certain segments are particularly vulnerable in the face of the pandemic, including older adults, Indigenous, black immigrants, people with disabilities, those with underlying medical conditions, as well as Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, Asexual, Two-Spirit (LGBTQ+), Asian American and Pacific Islander (AAPI), and Muslim, Arab, and South Asian (MASA) communities. NEJM emphasizes that as misinformation spreads, and Asians are scapegoated for the COVID-19 outbreak, anti-Asian discrimination and hate crimes are surging. In addition, immigrant children, adults, and families who are currently being detained in immigrant detention centers across the country lack access to adequate cleaning and sanitation supplies, or appropriate medical care and testing for COVID-19, putting their lives at risk.

According to NEJM, the country faces shortages of personal protective equipment, tests, and ventilators. As emergency departments and intensive care units brace for surges in volume, public health officials urge people with symptoms to stay home and call their doctor before seeking in-person medical care. However, for many undocumented immigrants, seeking medical care is not an option. The Affordable Care Act excludes undocumented immigrants from eligibility for coverage, and an estimated 7.1 million undocumented immigrants lack health insurance. Undocumented immigrants are also ineligible for Medicare, Medicaid, or the Children’s Health Insurance Program (CHIP).

The NEJM further reports that the disenrollment of immigrant families from SNAP over the past year will severely impact families and young children in light of the economic crisis resulting from COVID-19. With children home from school, the U.S. Department of Agriculture Food and Nutrition Service has relaxed guidelines to enable summer food service and national school lunch programs to serve meals in non-congregate settings, but children of immigrants who disenrolled from SNAP will not receive these services.

NEJM states that dire conditions in immigration detention centers must be addressed. On March 18, 2020, ICE announced that its “highest priorities are to promote life-saving and public safety activities,” and that it will focus detention efforts on those posing a public safety risk and “delay enforcement actions until after the crisis or utilize alternatives to detention, as appropriate.”¹² According to ICE, protocols are in place to screen and

¹¹ <https://www.nejm.org/doi/full/10.1056/NEJMp2005953>

¹² www.ice.gov/COVID19.b

isolate detainees with COVID-19 symptoms. However, NEJF states that infections transmitted through droplets are difficult to control in detention facilities given that 6-foot distancing and proper decontamination of surfaces is impossible.

According to NEJM, ICE facilities must adhere to Performance-Based National Detention Standards, which include access to medical care. However, most detained immigrants are housed in local detention facilities operating under intergovernmental service agreements or private facilities, which are not subject to these standards.

NEJM concludes that while four coronavirus-related federal bills have been enacted to assist workers, small business owners, and some industries impacted by the COVID-19 pandemic, for the most part the legislation excludes an estimated 11 million undocumented immigrants. These immigrants also do not qualify for other federal benefits and most state safety-net programs. Immigrants, particularly undocumented immigrants, are concentrated in low-wage sectors that have been the hardest hit by the pandemic, including hospitality, food service, landscaping, and caregiving. Undocumented immigrants who have lost jobs have access to very few resources.