

Indiana immigration law partially unconstitutional, says attorney general

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Indiana Attorney General Greg Zoeller conceded Tuesday that a key portion of the state's anti-illegal-immigration law is unconstitutional, and it appears unlikely lawmakers will revise the statute anytime soon to make it enforceable.

Zoeller's decision comes after the U.S. Supreme Court's landmark ruling June 25 to strike down similar measures in Arizona law. In the aftermath, legal scholars said the far-reaching implications of the ruling doomed sections of Indiana's law.

After reviewing the decision the past month, Zoeller agreed.

"The Supreme Court made clear that immigration enforcement is a federal government responsibility," he said.

Gov. Mitch Daniels signed the state's wide-ranging immigration reform bill in 2011, which had been a key objective of the Republican-controlled Indiana General Assembly. But the American Civil Liberties Union immediately took issue with two of the 17 provisions: an allowance for local police to detain illegal immigrants in certain instances and the prevention of immigrants from using foreign-issued ID cards.

The ACLU filed a federal lawsuit against Indiana's law last year. With the Supreme Court case pending amid a growing national debate on immigration, those two portions of the state law never have been enforced under a court order.

Tuesday, Zoeller filed a legal motion conceding the Supreme Court made it clear that state laws can't allow local officers to arrest people for immigration violations in certain instances.

But that doesn't end the case, still pending in the U.S. District Court of the Southern District of Indiana. The Supreme Court made no mention of the use of foreign-issued ID cards in the Arizona ruling. Zoeller has asked the Southern District court to rule on that matter. There is no timetable for a decision.

Still, in a strong signal the issue won't gain momentum again at the Statehouse, House Speaker Brian Bosma, R-Indianapolis, said he told Zoeller he got the decision right.

Bosma, a lawyer, said he regretted allowing the section regarding warrantless arrests to remain in the bill. In 2013, he said the legislature would not take a "knee-jerk reaction" to the court case and target sweeping immigration reform. He expects lawmakers' focus to be on improving the economy and approving a new two-year budget.

"We have so many issues before us right now ... adopting a budget that maintains the fiscal

integrity and conservatism that we've injected the last eight years, working as hard as we can to make Indiana the top job-creation state in the nation and continuing to improve the importance of access to education for every Hoosier, both young and old. There are always folks who want to focus on the latest issue blowing one direction or another, but those top issues will be what we spend the majority of our time with."

Sen. Mike Delph, R-Carmel, led the effort for anti-illegal-immigration reform in 2011. He could not be reached Tuesday but was deeply disappointed in the Supreme Court's decision a month ago. Other like-minded lawmakers were scrambling to examine Zoeller's decision. Rep. Eric Koch, R-Bedford, who championed anti-illegal-immigration reform in the House, said he wanted to speak with Zoeller before commenting.

It's a matter that has deeply divided not only the country but also the Republican Party.

Mike Murphy, a former Republican lawmaker and former Marion County GOP chairman, agreed that Zoeller made the right decision. Now with the Alliance for Immigration Reform in Indiana, he said decades from now Hoosiers will look back in embarrassment at anti-illegal-immigration times.

"In tough economic times, you tend to blame people who don't look like you or talk like you," he said. "If we were in better economic times, a lot of the emotion and shrillness around the immigration debate would not be occurring."

In 2009, about 120,000 illegal immigrants were living in Indiana, according to the Pew Hispanic Center.

Indiana Latino Expo board member Marco Dominguez said federal reforms should focus on a path to increased opportunities for legal immigration and citizenship. A Venezuelan immigrant who became a citizen in 2005, he believes legalized immigrants could help to rebuild a nation struggling through a long recession.

"Immigrants could help the United States build up the economy," he said.

<http://www.indystar.com/article/20120731/NEWS/120731051/Indiana-immigration-law-partially-unconstitutional-says-attorney-general?odyssey=tab|topnews|text|IndyStar.com>