

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**HIAS, INC., et al.,**

**v.**

**DONALD TRUMP, in his official capacity as  
President of the United States, et al.,**

Civil Action No. 8:19-cv-03346-PJM

**BRIEF OF THE STATES OF CALIFORNIA, ILLINOIS,  
MARYLAND, CONNECTICUT, MASSACHUSETTS,  
MINNESOTA, NEW JERSEY, NEW YORK, OREGON,  
PENNSYLVANIA, VIRGINIA, AND WASHINGTON AS  
*AMICI CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

**TABLE OF CONTENTS**

**Page**

INTEREST OF AMICI STATES ..... 1

ARGUMENT ..... 3

    I.    The Executive Order Violates the Refugee Act and Interferes  
          with the States’ Sovereign Interests..... 3

    II.   The Refugee Resettlement Consent Process Harms the States’  
          Refugee Communities ..... 6

    III.  The Refugee Resettlement Consent Process Burdens the States’  
          Resources ..... 9

        A.    Amici States Have Created Highly Effective Refugee  
              Settlement Systems..... 9

        B.    The Executive Order’s Consent Process Burdens State  
              Refugee Resettlement Programs..... 12

CONCLUSION..... 15

**TABLE OF AUTHORITIES**

**Page**

**CASES**

*Abourezk v. Reagan*  
 785 F.2d 1043 (D.C. Cir. 1986) ..... 3

*Alabama v. United States*  
 198 F. Supp. 3d 1263 (N.D. Ala. 2016)..... 4

*Chamber of Commerce of U.S. v. Reich*  
 74 F.3d 1322 (D.C. Cir. 1996)..... 3

*Danforth v. Minnesota*  
 552 U.S. 264 (2008)..... 5

*Reynolds v. Sims*  
 377 U.S. 533 (1964)..... 6

*Tennessee v. U.S. Dep’t of State*  
 No. 1:17-cv-01040, 2017 WL 5466382 (W.D. Tenn. June 1, 2017)..... 5

*Wisconsin Pub. Intervenor v. Mortier*  
 501 U.S. 597 (1991)..... 6

*Younger v. Bd. of Supervisors*  
 93 Cal. App. 3d 864 (1979) ..... 6

*Youngstown Sheet & Tube Co. v. Sawyer*  
 343 U.S. 579 (1952)..... 3

**STATUTES**

8 U.S.C.  
 § 1157(c)(2)(A) ..... 7  
 § 1522..... 9  
 § 1522(a)(2)(A) ..... 4  
 § 1522(a)(2)(A)-(B) ..... 3  
 § 1522(a)(2)(C)(i) ..... 7  
 § 1522(a)(2)(D) ..... 5  
 § 1522(e)(7)..... 11

California Welfare & Institution Code  
 § 13277..... 11, 14

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
New Jersey Administrative Code § 52:27D-145 .....	6
Refugee Act, Pub. L. No. 96-212, § 101(a), 94 Stat. 102 (1980).....	3
Refugee Assistance Extension Act of 1986, Pub. L. No. 99-605, 100 Stat 3449 (1986).....	5
 <b>CONSTITUTIONAL PROVISIONS</b>	
California Constitution Article XI, § 1 .....	6
Minnesota Constitution Article 12, § 3.....	6
 <b>OTHER AUTHORITIES</b>	
45 Code of Federal Regulations § 400.4.....	10
Admissions and Arrivals, Refugee Processing Center, <a href="https://ireports.wrapsnet.org/">https://ireports.wrapsnet.org/</a> ....	8, 9
Caitlin Yoshiko Kandil, <i>For refugees coming to Southern California, this Welcome Guidebook is a link to a new life</i> , LA Times (July 6, 2017), <a href="https://www.latimes.com/socal/daily-pilot/news/tn-wknd-et-refugees-welcome-guidebook-20170713-story.html">https://www.latimes.com/socal/daily-pilot/news/tn-wknd-et-refugees-welcome-guidebook-20170713-story.html</a> .....	8
California Department of Social Services, <i>California Newcomer Education and Well-Being</i> , <a href="https://www.cdss.ca.gov/inforesources/refugees/programs-and-info/youth-initiatives/calnew">https://www.cdss.ca.gov/inforesources/refugees/programs-and-info/youth-initiatives/calnew</a> .....	12
California Department of Social Services, <i>Services for Refugees, Asylees, and Trafficking Victims</i> , <a href="https://www.cdss.ca.gov/Refugee-Services">https://www.cdss.ca.gov/Refugee-Services</a> .....	11
California Department of Social Services, <i>Unaccompanied Refugee Minors</i> , <a href="https://www.cdss.ca.gov/refugee-services/unaccompanied-refugee-minors-program">https://www.cdss.ca.gov/refugee-services/unaccompanied-refugee-minors-program</a>	13
Executive Order No. 13,888, 84 Federal Regulation 52,355 (Sept. 26, 2019) .....	1, 7
Hirshfeld, J., <i>Trump Administration Rejects Study Showing Positive Impact of Refugees</i> , N.Y. Times (Sept. 18, 2017).....	10

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
House of Representatives Report No. 99-132 (1985), <i>reprinted in</i> 1986 U.S.C.C.A.N. 5857 .....	4
Illinois Department of Human Services, <i>Refugee &amp; Immigrant Services</i> , <a href="https://www.dhs.state.il.us/page.aspx?item=30363">https://www.dhs.state.il.us/page.aspx?item=30363</a> .....	11
Kerwin, D., <i>The US Refugee Resettlement Program —A Return to First Principles: How Refugees Help to Define, Strengthen, and Revitalize the United States</i> , <i>Journal on Migration &amp; Human Security</i> Vol. 6(3) (2018), <a href="https://journals.sagepub.com/doi/pdf/10.1177/2331502418787787">https://journals.sagepub.com/doi/pdf/10.1177/2331502418787787</a> .....	9
Minnesota Department of Human Services, Combined Manual: Processing RCA Applications, <a href="https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&amp;RevisionSelectionMethod=LatestReleased&amp;dDocName=CM_00300301">https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_</a> <a href="https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&amp;RevisionSelectionMethod=LatestReleased&amp;dDocName=CM_00300301">CONVERSION&amp;RevisionSelectionMethod=LatestReleased&amp;dDocName=</a> <a href="https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&amp;RevisionSelectionMethod=LatestReleased&amp;dDocName=CM_00300301">CM_00300301</a> .....	13
Minnesota Department of Human Services, Refugee Resettlement: Program Overviews, <a href="https://mn.gov/dhs/partners-and-providers/program-overviews/refugee-resettlement/">https://mn.gov/dhs/partners-and-providers/program-overviews/refugee-</a> <a href="https://mn.gov/dhs/partners-and-providers/program-overviews/refugee-resettlement/">resettlement/</a> .....	12
Minnesota Department of Human Services, Resettlement Programs Office 2018 Agency Contract List, <a href="https://edocs.dhs.state.mn.us/lfservlet/Public/DHS-7587J-ENG">https://edocs.dhs.state.mn.us/lfservlet/Public/DHS-7587J</a> -ENG .....	14
New American Economy, <i>From Struggle to Resilience The Economic Impact of Refugees in America</i> , 2 (June 2017), <a href="http://research.newamericaneconomy.org/wp-content/uploads/sites/2/2017/11/NAE_Refugees_V6.pdf">http://research.newamericaneconomy.org/wp-</a> <a href="http://research.newamericaneconomy.org/wp-content/uploads/sites/2/2017/11/NAE_Refugees_V6.pdf">content/uploads/sites/2/2017/11/NAE_Refugees_V6.pdf</a> .....	10
No Resettlement Without Consent Act, House of Representatives 546, 115th Congress (2017) <a href="https://www.congress.gov/bill/115th-congress/house-bill/546">https://www.congress.gov/bill/115th-congress/house-bill/546</a> .....	4
Refugees Welcome, <a href="http://refugeeswelcomeguide.net">http://refugeeswelcomeguide.net</a> .....	8
U.S. Citizenship and Immigration Services, <i>Refugees</i> , <a href="https://www.uscis.gov/humanitarian/refugees-asylum/refugee">https://www.uscis.gov/</a> <a href="https://www.uscis.gov/humanitarian/refugees-asylum/refugee">humanitarian/refugees-asylum/refugee</a> .....	9
U.S. Department of State Bureau of Population, Refugees, and Migration, <i>FY 2020 Notice of Funding Opportunity for Reception and Placement Program</i> (Nov. 6, 2019), <a href="https://www.state.gov/fy-2020-notice-of-funding-opportunity-for-reception-and-placement-program/">https://www.state.gov/fy-2020-notice-of-funding-opportunity-for-</a> <a href="https://www.state.gov/fy-2020-notice-of-funding-opportunity-for-reception-and-placement-program/">reception-and-placement-program/</a> .....	12

### INTEREST OF AMICI STATES

The States of California, Illinois, Maryland, Connecticut, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Virginia, and Washington (“*Amici States*”) respectfully submit this brief as *amici curiae* in support of Plaintiffs’ Motion for Preliminary Injunction, which seeks an order enjoining the Executive Order on Enhancing State and Local Involvement in Refugee Resettlement (“Executive Order”), and its implementation through the Department of State’s Notice of Funding Opportunity (“Notice”). The Executive Order directs the United States Department of State and the United States Department of Health and Human Services to “resettle refugees only in those jurisdictions in which both the State and local governments have consented to receive refugees under the Department of State’s Reception and Placement Program.” Exec. Order No. 13,888, 84 Fed. Reg. 52,355 (Sept. 26, 2019). While the Executive Order is purportedly designed to create “a more clearly defined role for State and local governments in the refugee resettlement process[,]” States were not consulted on how the Executive Order’s new consent process would adversely affect them, their state agencies, and their communities. *Id.*

The Executive Order violates federal law and harms the States’ sovereign interests in establishing statewide policies. The Refugee Act does not grant the President any authority to give States or their local governments the ability to veto the initial placement of refugees within their jurisdictions. In implying such a power—particularly as to the veto power of local governments—the Executive Order runs counter to one of the purposes of the Refugee Act: giving States a greater voice in making recommendations about refugee placement within their States. Even where *Amici States* consent to refugee resettlement, the Executive Order purports to give local governments veto power over state policy decisions. Nothing in the Refugee Act

permits such a significant intrusion on *Amici* States' sovereign interests in making decisions based on statewide impact and statewide concerns.

The Executive Order also undermines the Refugee Act's family reunification provisions. While the Refugee Act facilitates the family reunification of spouses, children, siblings, and parents, the Executive Order permits local governments to limit family reunification to only spouses and children who are reunifying with a refugee spouse or parent, respectively. Allowing the President to unilaterally impose a local-consent requirement undermines the broad scope of family reunification provided for in the statute. Such executive power should not be inferred.

The consent process also threatens to disrupt the carefully constructed and efficient refugee relocation systems States have created by operation of the Refugee Act. Each year thousands of refugees are lawfully admitted into the United States. These refugees in turn are welcomed into *Amici* States' communities where they have access to services and cultural connections that help them thrive. To this end, each State has created a statewide system to administer the funding provided by the Department of Health and Human Services' Office of Refugee Resettlement (ORR) for long-term services for refugees, and to coordinate state-administered or nonprofit-administered programs to provide essential services to refugees during and after the resettlement process. The States' ability to deliver essential services to refugees will be disrupted by the President's ill-considered, extra-statutory consent process, as it interferes with the existing practice of placing refugees in the communities where they are most likely to succeed. The consent process has already led to confusion for resettlement agencies operating within the *Amici* States and counties causing a diversion of resources by States and resettlement agencies. Due to ongoing and further potential harm caused by the consent process, *Amici* States urge the Court to grant the motion for preliminary injunction.

## ARGUMENT

### I. THE EXECUTIVE ORDER VIOLATES THE REFUGEE ACT AND INTERFERES WITH THE STATES' SOVEREIGN INTERESTS

Executive orders addressing the admission and exclusion of immigrants that conflict with a federal statute exceed presidential authority and are, therefore, invalid. *Abourezk v. Reagan*, 785 F.2d 1043, 1061 (D.C. Cir. 1986), *aff'd*, 484 U.S. 1 (1987); *see also Chamber of Commerce of U.S. v. Reich*, 74 F.3d 1322, 1339 (D.C. Cir. 1996) (striking down Executive Order and Secretary of Labor's regulations as conflicting with the National Labor Relations Act). As plaintiffs demonstrate in their Motion for Preliminary Injunction (Mot. at 13-23), the novel and sweeping powers claimed by the President in the Executive Order are not authorized by the Refugee Act. Congress enacted the Refugee Act of 1980 to "provide a permanent and systematic procedure for the admission to this country of refugees" and "to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted." Refugee Act, Pub. L. No. 96-212, § 101(a), 94 Stat. 102 (1980). The Refugee Act directs the Departments of State and Health and Human Services to obtain input from states and local governments to develop "policies and strategies for the placement and resettlement of refugees" within the United States. 8 U.S.C. § 1522(a)(2)(A)-(B). Neither the Refugee Act, nor any other federal law, gives the President the authority to allow local governments veto power over where refugees are initially resettled. *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952) (the president's power must stem from either an act of Congress or the Constitution).

Further, reading any such executive power into the statute would run counter to congressional intent. While the Refugee Act was amended in 1982 and 1986 to give the States and local governments more opportunities to provide input over refugee resettlement, the



legislative history makes clear that “these requirements are not intended to give States and localities any veto power over refugee placement decisions, but rather to ensure their input into the process and to improve their resettlement planning capacity.” H.R. Rep. No. 99-132 at 19 (1985), *reprinted in* 1986 U.S.C.C.A.N. 5857, 5870; *see also Alabama v. United States*, 198 F. Supp. 3d 1263, 1272 (N.D. Ala. 2016) (“the legislative history of the Act shows the Act’s consultation provision is “not intended to give States [ ] any veto power over refugee placement decisions”). A resolution introduced in the House of Representatives in 2017 would have amended the Refugee Act to create a process by which state or local legislatures could opt out of the initial placement of refugees within their jurisdictions. No Resettlement Without Consent Act, H.R. 546, 115th Cong. (2017). The resolution stated that “[t]he Director shall not place or resettle a refugee within a State without the approval of the Governor of the State,” and notwithstanding a state governor’s approval, “the Director shall not place or resettle a refugee in any locality within a State if the locality has in effect a law, or a policy with the effect of law, disapproving of refugee resettlement in that locality.” *Id.* The resolution failed.<sup>1</sup>

This Administration itself has previously acknowledged that States’ involvement in shaping refugee settlement is governed by the terms of the Refugee Act. As recently as 2017, the Trump administration took the position that, while the State Department’s Bureau of Population, Refugees, and Migration “consults with State and local governments ‘concerning the sponsorship process and the intended distribution of refugees among the States and localities before their placement,’ 8 U.S.C. § 1522(a)(2)(A), . . . the Refugee Act does not otherwise provide for the involvement of State or local governments in determining where individual

---

<sup>1</sup> No Resettlement Without Consent Act, H.R. 546, 115th Congress (2017) <https://www.congress.gov/bill/115th-congress/house-bill/546>.

refugees are resettled once admitted to the United States.” *Tennessee v. U.S. Dep’t of State*, No. 1:17-cv-01040, 2017 WL 5466382 (W.D. Tenn. June 1, 2017).

*Amici* States note another adverse consequence of allowing the President to graft a local-government veto power onto the current system. It would effectively allow counties—subunits of state government—to override refugee settlement decisions and prerogatives of the States that reflect statewide interests and concerns. This result would run counter to one of the objectives of the Refugee Act: to give States a greater role in refugee placement decisions than that afforded to local governments. In the 1986 amendment to the Act, Congress directed the federal agencies “to the maximum extent possible, take into account recommendations of the State” regarding “the location of placement of refugees within a State.” 8 U.S.C. § 1522(a)(2)(D); Refugee Assistance Extension Act of 1986, Pub. L. No. 99-605, 100 Stat 3449 (1986). The Executive Order, however, would give local governments the ability to opt out of receiving refugees even if their respective State governments consent to receive refugees. Such a result is irreconcilable with the Refugee Act.

Further, the Executive Order and its implementation interfere with each State’s sovereign prerogative to set statewide policy on refugee settlement. The *Amici* States are “independent sovereigns with plenary authority to make and enforce their own laws as long as they do not infringe on federal constitutional guarantees.” *Danforth v. Minnesota*, 552 U.S. 264, 280 (2008). The political subdivisions of States—counties and municipalities—derive their authority from state governments and state constitutions. Although *Amici* States frequently work in close collaboration with local governments within their borders, “[p]olitical subdivisions of States—counties, cities, or whatever—never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities

created by the State to assist in the carrying out of state governmental functions.” *Reynolds v. Sims*, 377 U.S. 533, 575 (1964); *see also* Cal. Const. art. XI, § 1; *Younger v. Bd. of Supervisors*, 93 Cal. App. 3d 864, 870 (1979) (California Constitution does not authorize county to establish additional qualifications for candidacy for county elected office because it is not an enumerated authority for counties and is therefore retained by the State); Minn. Const. Art. 12, § 3 (“The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats.”); N.J. Admin. Code § 52:27D-145 (political subdivisions derive their “authority directly or indirectly from the State of New Jersey”). As sovereign entities, *Amici* States have the authority to decide what decision-making authority they delegate to their counties or “county equivalent[s]” regarding refugee placement. *See Wisconsin Pub. Intervenor v. Mortier*, 501 U.S. 597, 607-08 (1991) (localities’ ability to adopt ordinance regarding pesticides was within the “absolute discretion of the States” because localities “are created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them in its absolute discretion.”) (Internal citations and punctuation omitted.). The decisions or recommendations regarding refugee placement should be decided within each State in accordance with state law. The Executive Order negates the role of the States in refugee settlement policy set out in the Refugee Act and well-established principles of state sovereignty.

## **II. THE REFUGEE RESETTLEMENT CONSENT PROCESS HARMS THE STATES’ REFUGEE COMMUNITIES**

The Executive Order also entirely ignores the Refugee Act’s consideration of family reunification as a priority in refugee resettlement, even where a community has been determined

to be near capacity in its ability to accept new refugees. The Refugee Act provides that federal agencies “shall” develop refugee resettlement policies where refugees are not “initially placed or resettled in an area highly impacted . . . by the presence of refugees or comparable populations *unless the refugee has a spouse, parent, sibling, son, or daughter residing in that area.*” 8 U.S.C. § 1522(a)(2)(C)(i) (emphasis added). Notwithstanding this clear statutory language, the Executive Order allows for the resettlement of refugees without state or local government consent only if it involves “a refugee’s spouse or child following to join that refugee pursuant to 8 U.S.C. 1157(c)(2)(A).” Exec. Order No. 13,888, 84 Fed. Reg. 52,355, 52,356 (Sept. 26, 2019). Contrary to the Refugee Act’s language, the Executive Order’s consent process would prevent the family reunification of the following newly admitted refugees, unless local governments consent: (a) a refugee whose wife is already in the United States but the wife was not admitted as a refugee; (b) a child whose parent is already in the United States but the parent was not admitted as a refugee; (c) a parent whose child is already in the United States; and (d) a refugee whose refugee brother is already living in the United States. Given the Executive Order’s consent process and the United States Department of State’s implementation, both of which ignore family reunification, newly admitted refugees may be resettled in areas far from existing family ties, contrary to congressional intent. Given these effects, the Executive Order exceeds the authority conferred by the Refugee Act.

The narrow family reunification exception in the Executive Order ignores the fact that *Amici* States are home to myriad established refugee communities with cultural connections and resources for employment and other support. Historically, refugees have been initially placed in communities where there is an established community of refugees from the same country, in order to maximize cultural supports. For example, in the last five federal fiscal years (FFY),

California has received most of its refugees from Iraq. However, over 70% of 7,359 Iraqi refugees were settled in only three cities in the State, each with established communities.<sup>2</sup> In Washington, Ukrainians represented 71% of refugee arrivals in FFY 2019, 65% of refugee arrivals in FFY 2018 and 49% of refugee arrivals in FFY 2017. The majority (greater than 90%) of Ukrainian refugees are arriving in Washington to join family members who submitted Affidavits of Relationships through a local refugee resettlement application process that applies to refugees who are religious minorities and qualify through the Lautenberg Amendment. Placing refugees in locations where communities have been established provides them with a sense of belonging and safety with people who may observe similar traditions, be from the same home country, and speak the same language.

Prohibiting family reunification because local governments have not consented will also disrupt refugees' ability to build the resources and social capital necessary to succeed in *Amici* States. In 2017, the Southern California refugee community created a "Refugees Welcome Guidebook" specifically for Syrian and Iraqi refugees in the area.<sup>3</sup> The Guidebook offers information culled from local refugees and communities regarding topics like schooling and immigration support; transportation methods and affordable shopping; and how to get help for drug and alcohol abuse or domestic violence.<sup>4</sup> Efforts like this may not be possible where the consent requirement disrupts the creation of communities. The consent requirement would additionally harm our citizens, lawful permanent residents, and resident visa holders, many of

---

<sup>2</sup> The three cities are San Diego, El Cajon, and Sacramento. *Admissions and Arrivals*, REFUGEE PROCESSING CENTER, <https://ireports.wrapsnet.org/>.

<sup>3</sup> Caitlin Yoshiko Kandil, *For refugees coming to Southern California, this Welcome Guidebook is a link to a new life*, LA TIMES (July 6, 2017), <https://www.latimes.com/socal/daily-pilot/news/tn-wknd-et-refugees-welcome-guidebook-20170713-story.html>.

<sup>4</sup> *Id.*; see also Refugees Welcome, <http://refugeeswelcomeguide.net>.

whom have family members and loved ones who may be presumptively denied placement with a community located in a non-consenting jurisdiction. Furthermore, families already residing within *Amici* States' borders may be forced to decide between remaining with their supportive community and reunifying with refugee family members who do not meet the follow-to-join exception of the Executive Order and are resettled outside of a county that does not consent.

### **III. THE REFUGEE RESETTLEMENT CONSENT PROCESS BURDENS THE STATES' RESOURCES**

#### **A. *Amici* States Have Created Highly Effective Refugee Settlement Systems**

*Amici* States collectively have welcomed 42.9% of the total refugees entering the United States since October 1, 2001, and almost 40% of refugees over the last five federal fiscal years.<sup>5</sup> *Amici* States greatly benefit from the presence of refugee populations, who are hardworking, productive members of society. Notably, the refugees whose placement may be restricted by the consent requirement are already legally admitted to the United States and can become legal permanent residents within a year of admission. They have the right to work, are eligible for healthcare and cash assistance, and have access to employment and language services that will help position them to better contribute to the States' workforces.<sup>6</sup> 8 U.S.C. § 1522.

Several studies have documented the many contributions of refugees to our States. For example, refugees' labor force participation and employment rates are higher than those of the total U.S. population.<sup>7</sup> Large numbers of refugees are self-employed and create jobs. Refugees' median personal income equals that of non-refugees and exceeds the income of the average

---

<sup>5</sup> *Admissions and Arrivals*, REFUGEE PROCESSING CENTER, <https://ireports.wrapsnet.org/>.

<sup>6</sup> U.S. Citizenship and Immigration Services, *Refugees*, <https://www.uscis.gov/humanitarian/refugees-asylum/refugees>.

<sup>7</sup> Kerwin, D., *The US Refugee Resettlement Program —A Return to First Principles: How Refugees Help to Define, Strengthen, and Revitalize the United States*, J. ON MIGRATION & HUMAN SECURITY Vol. 6(3) (2018), <https://journals.sagepub.com/doi/pdf/10.1177/2331502418787787>.

foreign-born individual overall. Refugees are more likely to be skilled workers than non-refugees or foreign-born people in general. Further, refugees' public benefit usage significantly declines over time as their integration, well-being, and U.S. family ties increase.<sup>8</sup> In 2015, refugees' businesses generated \$4.6 billion in income and their spending power in California alone totaled more than \$17.2 billion.<sup>9</sup> A leaked draft 2017 report by the Department of Health and Human Services found that over the past decade, refugees have contributed \$63 billion more in tax revenue than they cost in public benefits.<sup>10</sup> One reason that refugees are able to have this level of impact is that the States have been able to resettle them into communities that provide them support as they transition.

Much of the success of *Amici* States' resettlement programs is driven by the carefully calibrated collaboration process between the relevant federal, state, and local agencies, and national and local nonprofit institutions. All *Amici* States have designated state agencies that administer federal funding for refugees and coordinate specialized services to meet refugees' needs. These state agencies operate on dual tracks to ensure the success of refugee resettlement.

First, state agencies and local resettlement agency affiliates may work together to submit proposals to ORR and to national resettlement agencies, respectively. ORR requires each State that administers a refugee resettlement program to submit an annual State Plan, 45 C.F.R.

---

<sup>8</sup> *Id.*

<sup>9</sup> New American Economy, *From Struggle to Resilience The Economic Impact of Refugees in America*, 2 (June 2017), [http://research.newamericaneconomy.org/wp-content/uploads/sites/2/2017/11/NAE\\_Refugees\\_V6.pdf](http://research.newamericaneconomy.org/wp-content/uploads/sites/2/2017/11/NAE_Refugees_V6.pdf). Refugees also have a substantial economic impact in other *Amicus* States, such as Minnesota where refugees possessed a combined spending power of \$1.8 billion and paid \$227 million in state and local taxes in 2015. *Id.*

<sup>10</sup> Hirshfeld, J., *Trump Administration Rejects Study Showing Positive Impact of Refugees*, N.Y. TIMES (Sept. 18, 2017), <https://www.nytimes.com/2017/09/18/us/politics/refugees-revenue-cost-report-trump.html>.

§ 400.4; and the nine national resettlement agencies use proposals submitted from their local affiliates to discuss refugee allocations with the United States Department of State.

Second, the state agencies and their local government and nonprofit partners collaborate to deliver essential services to eligible refugees, including programming focused on education, health, employment, language, unaccompanied minors, and more, as well as cash assistance.<sup>11</sup> *See e.g.* Cal. Wel. & Inst. Code § 13277. Program benefits and services may be administered at the local level by county social services departments, through county contracts with local service providers to deliver direct services, or through direct contracts between the State and local nonprofit resettlement agencies.<sup>12</sup> These services are available to refugees for a minimum of three years from initial placement in the United States. 8 U.S.C. § 1522(e)(7). For example, between July 2017 and June 2018, Illinois placed 973 refugees into jobs (99.7% of whom had retained their positions after 90 days), helped connect 2,132 refugees with local health and human services providers, and helped ensure that 835 refugee children were served in after-school programs. In FFY 2019, Maryland assisted 1,116 refugees in obtaining jobs, connected 1,206 with health screenings, served 439 refugee youth through after-school programs, mentorship and case management, and enrolled 720 refugees in English classes.

*Amici* States also offer additional services to refugees and/or use state funds to supplement the ORR-funded services.<sup>13</sup> For example, California has a Newcomer and Well-

---

<sup>11</sup> *See* Cal. Dep't of Soc. Servs., *Services for Refugees, Asylees, and Trafficking Victims*, <https://www.cdss.ca.gov/Refugee-Services>.

<sup>12</sup> *Id.*; Ill. Dep't of Human Servs., *Refugee & Immigrant Services*, <https://www.dhs.state.il.us/page.aspx?item=30363>.

<sup>13</sup> In Minnesota, the Resettlement Programs Office in the State's Department of Human Services ensures access to mainstream programs for people with refugee status, distributes federal funds to local agencies for supplemental services, and provides the public with education and information about refugees. The Office works with other federal, state, and local agencies,

(continued...)



Being Education Program, which provides state funding to school districts with a significant number of eligible students, including refugees, to improve their wellbeing, English language proficiency, and academic performance, and is intended to assist school districts in planning, designing, and implementing supplementary and social adjustment support services.<sup>14</sup> The consent process, if implemented, would fundamentally disrupt the processes *Amici* States use to resettle refugees, drastically reducing the effectiveness of the States' resettlement programs, and subvert the purposes of the Refugee Act.

**B. The Executive Order's Consent Process Burdens State Refugee Resettlement Programs**

The State Department's Notice directs resettlement nonprofit agencies to obtain consents from states and counties or county-equivalents as part of their funding application process without providing any guidance on how to obtain those consents, and with inadequate information about deadlines, consent language, or the definition of local government or "local executive."<sup>15</sup> The lack of guidance to *Amici* States and their local governments has left state agencies to scramble as they redirect resources to focus on the consent process and its implications. Since the Notice's publication on November 6, 2019, *Amici* State agencies have been actively coordinating with and fielding inquiries from resettlement agencies, county and

---

(...continued)

as well as nonprofit and community organizations to provide employment services, social services, food assistance, cash assistance, and health care services for refugees around the state. See MN Dep't of Human Servs., Refugee Resettlement: Program Overviews, <https://mn.gov/dhs/partners-and-providers/program-overviews/refugee-resettlement/>.

<sup>14</sup> See, Cal. Dep't of Soc. Servs., *California Newcomer Education and Well-Being*, <https://www.cdss.ca.gov/inforesources/refugees/programs-and-info/youth-initiatives/calnew>.

<sup>15</sup> U.S. Dep't of State, Bureau of Population, Refugees, and Migration, *FY 2020 Notice of Funding Opportunity for Reception and Placement Program* (Nov. 6, 2019), <https://www.state.gov/fy-2020-notice-of-funding-opportunity-for-reception-and-placement-program/>

municipal governments, and other state agencies who are seeking clarity on the manner and process by which to meet the consent requirement. Requiring local jurisdictions to opt in by providing a formal letter of consent has fostered confusion and concern across communities that already knew about the refugee resettlement program and had participated in the past. For instance, after Washington State's Refugee Coordinator engaged in an outreach campaign to local governmental leaders to provide notice of the need for consent and coordinate the same, some local governments have had to host public forums and public meetings of their councils in order to address the consent requirement, some of which she has been asked to attend. The undue administrative burden on state agencies and resettlement agencies to obtain consents frustrates the institutional mission of the agencies and diverts their limited time and resources away from directly serving refugees. This diversion, in turn, undermines the States' ability to deliver services to existing refugees in *Amici* States, as the agencies that are the direct service providers are occupied with obtaining consent from states and counties. Further, if any of the local resettlement agencies are forced to close due to lack of consenting counties, the States' delivery of services to refugees will be impaired.<sup>16</sup>

The consent requirement also unfairly interferes with the placement of unaccompanied refugee minors (URM) within states and localities. URM who enter the United States are placed with foster families.<sup>17</sup> In all *Amici* States, the foster system is a statewide system. When

---

<sup>16</sup> As an example of how the States depend on resettlement agencies to help them deliver services, Minnesota contracts with local resettlement agencies to administer federal Refugee Cash Assistance benefits in the eight counties receiving the highest number of refugee arrivals. See MN Dep't of Human Servs., Combined Manual: Processing RCA Applications, [https://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=CM\\_00300301](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=CM_00300301).

<sup>17</sup> See e.g. Cal. Dep't of Soc. Servs., *Unaccompanied Refugee Minors*, <https://www.cdss.ca.gov/refugee-services/unaccompanied-refugee-minors-program>.

a foster family is available to take in a child, they may be located in any county within the State. If an available foster family is located within a county that has not provided consent for refugee placement, the state foster family agency will have to wait until a foster family is available in a consenting county. This frustrates the mission of foster family agencies by denying the minor a prompt resettlement at a vulnerable time in their childhood development, denies foster families the opportunity to provide support and resources to a minor, and burdens the state foster family agency with identifying another available foster family for the minor. The consent requirement therefore severely undermines the purpose and operation of the foster care system.

Having a checkered approach that limits where refugees may resettle will increasingly burden state agencies. For example, California, which distributes ORR funding to refugee impacted counties (Cal. Welf. & Inst. Code § 13277), may need to re-assess its funding distribution program as new counties become impacted by changes in refugee placement. Further, California's ethnic community-based organizations that aid in providing services to refugees may prove to be insufficient if new refugees are resettled far from where these organizations operate due to a lack of county consent.<sup>18</sup> The Washington Office of Refugee and Immigrant Assistance (ORIA) braids refugee resettlement funding with other federal and state dollars to provide services through providers, including local community-based organizations, refugee resettlement agencies, other state agencies, and colleges. Disrupting this interdependent network of programs and services would limit support to refugees and the local communities that have welcomed them. And in Illinois, where the State works more directly with local

---

<sup>18</sup> Minnesota also contracts with local nonprofit and community organizations in different parts of the state to provide culturally appropriate and multilingual support to refugees from different ethnic groups and could be faced with similar problems. *See* MN Dep't of Human Servs., Resettlement Programs Office 2018 Agency Contract List, <https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-7587J-ENG>.

resettlement agencies, county governments may not have the staffing, resources, or capacity to independently evaluate the extent to which resettlement of refugees within their borders would be appropriate, as it is often local government units other than counties—such as school districts, special service districts, and/or sub-county municipalities—that actually play a greater role in the process of refugee resettlement. Thus, the new consent requirement may ultimately require the current system of distributing ORR funding and state-funding within *Amici* States to be significantly reshaped. This will disrupt the States’ ability to receive and resettle refugees for a period of time and further divert an unknown amount of State time and resources toward implementing a requirement that conflicts with the State and local roles contemplated in the Refugee Act.

#### **CONCLUSION**

The Executive Order violates the Refugee Act, interferes with the States’ sovereign interests, harms existing refugee communities, and places unjustified administrative burdens on state agencies, counties, and resettlement agencies. Therefore, *Amici* States respectfully request that the Court grant Plaintiffs’ Motion for Preliminary Injunction.

Dated: December 13, 2019

Respectfully submitted,

XAVIER BECERRA  
*Attorney General of California*  
MICHAEL L. NEWMAN  
*Senior Assistant Attorney General*  
CHEROKEE DM MELTON  
*Supervising Deputy Attorney General*  
VILMA PALMA-SOLANA\*  
JASLEEN K. SINGH\*  
*Deputy Attorneys General*  
Office of the Attorney General  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Phone: (213) 269-6385  
Vilma.Solana@doj.ca.gov

BRIAN E. FROSH  
*Attorney General of Maryland*  
STEVEN M. SULLIVAN  
*Solicitor General*

/s/ Jeffrey P. Dunlap  
JEFFREY P. DUNLAP  
*Assistant Attorney General*  
Bar No. 20846  
200 St. Paul Place  
Baltimore, MD 21202  
Phone: (410) 576-7906  
Fax: (410) 576-6955  
jdunlap@oag.state.md.us

KWAME RAOUL  
*Attorney General of Illinois*  
CHRISTOPHER G. WELLS  
*Chief, Public Interest Division*  
JEFF VANDAM\*  
*Public Interest Counsel*  
ISAAC JONES  
*Assistant Attorney General*  
Office of the Illinois Attorney General  
100 W. Randolph St., 11th Fl.  
Chicago, Illinois 60601  
Phone: (312) 814-1188  
Email: jvandam@atg.state.il.us

WILLIAM TONG  
*Attorney General*  
*State of Connecticut*  
165 Capitol Avenue  
Hartford, CT 06106

MAURA HALEY  
*Attorney General*  
*Commonwealth of Massachusetts*  
One Ashburton Place  
Boston, MA 02108

KEITH ELLISON  
*Attorney General*  
*State of Minnesota*  
102 State Capitol  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

GURBIR S. GREWAL  
*Attorney General of New Jersey*  
Richard J. Hughes Justice Complex  
25 Market Street  
Trenton, NJ 08625

LETITIA JAMES  
*Attorney General*  
*State of New York*  
28 Liberty Street  
New York, NY 10005

ELLEN F. ROSENBLUM  
*Attorney General of Oregon*  
1162 Court Street NE  
Salem, OR 97301

JOSH SHAPIRO  
*Attorney General*  
*Commonwealth of Pennsylvania*  
1600 Arch Street, Suite 300  
Philadelphia, PA 19103

MARK R. HERRING  
*Attorney General of Virginia*  
202 North 9th Street  
Richmond, Virginia 23219

ROBERT W. FERGUSON  
*Attorney General of Washington*  
PO Box 40100  
Olympia, Washington 98504-0100

*\*Pro Hac Vice Applications forthcoming*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 2019, I caused a true and correct copy of the foregoing to be served on all counsel of record through the Court's CM/ECF system.

/s/ Jeffrey P. Dunlap  
JEFFREY P. DUNLAP  
Assistant Attorney General  
Bar No. 20846  
200 St. Paul Place  
Baltimore, MD 21202  
Phone: (410) 576-7906  
Fax: (410) 576-6955  
jdunlap@oag.state.md.us