

Immigration advocates make some election gains, but face pushback

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November 19, 2020

For cities and counties looking to protect immigrants living in the United States illegally from deportation, November's election results were a double-edged sword.

Some sheriffs were elected in cities and their suburbs in part by touting their opposition to federal deportation efforts. And the Biden administration likely will support so-called sanctuary cities and allow local officials more say in adjudicating who gets deported, experts say.

But Republican-dominated state legislatures that have favored strict immigration policies kept GOP majorities in the election. They may clamp down on the new sheriffs' efforts and resist the Biden administration's push to limit deportation, though their protests may not get far.

"There's not much they can do about it," said Randy Capps, research director at the nonpartisan Migration Policy Institute in Washington, D.C., in an interview. "You may see press releases complaining that ICE (U.S. Immigration and Customs Enforcement) wouldn't accept somebody they wanted to get rid of."

In Georgia and South Carolina, sheriffs successfully ran on pledges to stop or limit cooperation with federal immigration arrests at their jails.

"I never expected to run for public office but I could no longer stand by and see the headlines of lawsuits and broken families," said Democrat Craig Owens, a police major who unseated longtime Republican Sheriff Neil Warren in Cobb County, Georgia, near Atlanta.

In nearby Gwinnett County, retired police major Keybo Taylor, another Democratic political newcomer, also promised to end the county's participation in the federal 287(g) program, under which deputies help screen arrestees for immigration status in partnership with ICE agents.

Cobb and Gwinnett counties represent two of the eight Georgia counties in the 287(g) program. The two counties are outliers in the Atlanta metro area, where Black migration from around the country has changed the area's political landscape, and both sheriffs will be the first Black people in the role.

Their wins were another victory for activists who have targeted the biggest 287(g) programs in the country, taking down urban programs in Arizona, California and Tennessee in the past decade. Gwinnett has the largest 287(g) program in the country, with 4,211 immigration arrests between 2015 and 2018, according to the latest figures available from Syracuse University, which tracks immigration enforcement statistics.

Cobb has the next largest active program, with 1,435 arrests since 2015. Larger programs in North Carolina, Texas and Virginia have ended.

“It’s almost become a political statement, that these urban areas are turning blue and they’re making a point of rejecting the program, while smaller rural areas really want it,” Capps said. “That’s really Trump country and they’re embracing it.” Dozens of smaller and suburban counties signed up when Trump called for more participation in the program.

In Georgia, both Democratic sheriffs-elect will succeed longtime Republicans with hardline immigration policies. But Republicans held ground in Georgia’s state legislature and could take action against the sheriffs, similar to what happened in North Carolina, where urban sheriffs with anti-287(g) views took office last year.

The Republican-led North Carolina legislature approved legislation in August 2019 calling for sheriffs to be removed from office if they failed to cooperate with immigration authorities. Democratic Gov. Roy Cooper vetoed the bill.

The progressive think tank Georgia Budget and Policy Institute, which opposes the 287(g) program, said the elections didn’t bring much change to the generally immigration-hostile Georgia legislature.

“We fully expect opposition from the state,” said Stephanie Angel, a policy fellow specializing in immigration at the institute, adding that ending 287(g) agreements in the Atlanta area will give immigrants more stability.

“This will allow the community to just continue to live and work and go to school, and have a little peace of mind knowing that when they leave the house they’re coming back home again,” Angel said. Arrests on charges of minor crimes such as driving without a license have ended in deportation for many immigrants, she said.

Traffic offenses were the most common criminal convictions in both Gwinnett and Cobb counties for those arrested in the 287(g) programs, though many had no criminal history at all, according to the Syracuse University data.

Georgia Republicans are still planning their response to the sheriffs’ elections.

“We will likely have movement on this, this year, but it is too soon to know what form it will take,” said state Rep. Philip Singleton, a Republican legislator from Sharpsburg who sponsored an unsuccessful anti-sanctuary bill in February. It would have required full cooperation with immigration authorities, and fined violators up to \$25,500 a day.

Still, Republican sentiment is not unanimous. Rep. Kasey Carpenter, a Republican who represents a northwestern Georgia district that relies on immigrant labor for carpet mills, isn’t so sure the legislature will act. However, he supports the 287(g) program in his own district, where Whitfield County adopted the program.

“I don’t know that we’re going to do anything,” Carpenter said, adding that state Republicans need a more diverse viewpoint. “This is not a time for us to be closing off the tent. We need to open up the tent.”

Carpenter said he would co-sponsor a bipartisan bill next year that would give in-state college tuition to so-called Dreamers, people brought to the United States as children without legal status.

“It’s not their fault if their parents drug them here,” Carpenter said. “We already invested in these kids by giving them a high school education here in Georgia. From a Republican point of view, it’s prudent to continue that investment.”

In South Carolina, a sheriff in Charleston County also was elected on a pledge to end 287(g) agreements. But in Tarrant County, Texas, which includes Fort Worth, a challenger with the same platform lost the sheriff race.

Local resistance to immigration enforcement took a toll on the Trump administration’s plans to crack down on immigration, said Capps, the MPI research director. The institute researches and analyzes immigration issues and has made policy recommendations to the Biden transition team, including streamlined management of asylum cases to minimize detention.

Within days of taking office, President Donald Trump issued an executive order expanding immigration enforcement to include deportation of anyone living in the United States illegally. Immigration arrests jumped more than 40% from the year before.

“But they never reached the high level that they had been at the peak of 2011 and 2012 under the Obama administration,” Capps said in a Nov. 9 news conference. “This is because you had states like California, Illinois and Connecticut and major cities like New York and Chicago that severely narrowed cooperation. The Trump administration tried but never succeeded in overturning these sanctuary policies.”

A Biden administration would be friendlier to sanctuary cities that limit cooperation with immigration arrests, Capps said, and authorities likely will stop “high-profile, retaliatory raids against them.”

And the new administration likely will renegotiate terms of cooperation using “immigration detainers,” or holds used by immigration authorities to maintain custody of immigrants for possible deportation whether or not 287(g) is in place. The Obama administration did the same thing after 2012, to give cities more choice about who to turn over for deportation, based on criminal history.

The Biden transition team did not respond to a request for comment.

Cities have battled federal immigration authorities for years, and increasingly states became arbitrators as conflicts escalated under the Trump administration.

California’s Trust Act in 2017 forbade even cursory information exchanges with immigration authorities, forcing the shutdown of Orange County’s 287(g) program. At the other end of the spectrum, Texas banned sanctuary policies, forcing more cooperation with federal authorities.

“It used to be a strictly local thing, and now states are stepping up more,” said Lena Graber, senior staff attorney for the Immigrant Legal Resource Center, which tracks sanctuary policies in cities and states. Immigration advocates also have succeeded in using sheriff elections to dislodge some of the largest 287(g) programs in the country, including Harris County, Texas, in 2017, she said.

However, a new Texas law passed soon after and took effect in September 2017, requiring full cooperation with immigration authorities. So while Harris County, home of Houston, left the

287(g) program, it was forced to work with ICE authorities inside prisons to identify immigrants for deportation, and arrests continued at a high level, Capps said.

It's unclear what an incoming Biden administration will do about the 287(g) program. In one position paper on Latino issues, the campaign pledged to "end the Trump Administration's historic use of 287(g) agreements," but addressed only a section of the administration's Jan. 25, 2017, executive order that would "empower State and local law enforcement agencies across the country to perform the functions of an immigration officer."

"I don't see Biden doing away with 287(g)," Capps said. "A lot of it was created by legislation and he'd be picking a fight with Congress." It's more likely a Biden administration, as Obama's did, would limit deportation to serious crimes and recent arrivals, Capps said.

Some state and local officials are hoping compromises allow more legal immigration to help fill jobs if pandemic conditions ease.

Before the pandemic, for example, Utah Republicans were pushing for a new kind of visa, sponsored by the state, that would allow workers from abroad to work year-round in the state, filling agricultural jobs in the summer and ski resort jobs in the winter.

The libertarian Cato Institute highlighted that proposal after the election as an example of the kind of flexibility the federal government could give states to chart their own course on immigration.

According to the Nov. 11 Cato report, "This localized approach would spread the benefits of immigration to places that have so far received few immigrants." Utah's outgoing Republican governor, Gary Herbert, told Stateline he still favors the proposal, but Gov.-elect Spencer Cox, also a Republican, did not respond to request for comment.

California's Silicon Valley tech entrepreneurs also have asked for rollbacks of restrictions on high-skill visas used to attract STEM workers.