



VIRGINIA LATINO ADVISORY BOARD 2018-2019 Annual Report Addendum

October 2019

Office of Ralph S. Northam

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Report Addendum prepared by members of the Virginia Latino Advisory Board

VIRGINIA LATINO ADVISORY BOARD

Addendum to 2018-2019 Annual Report

The Virginia Latino Advisory Board (VLAB) respectfully presents the following recommendations for consideration by Governor Northam and his Cabinet for legislative, administrative and budgetary actions during the 2020 legislative session and for the upcoming biennial budget. These recommendations are an addendum to VLAB’s 2018-2019 Annual Report.

SUMMARY OF RECOMMENDATIONS

Priority Area	Recommendation	Leg.	Admin.	Budget
Health	Improve access of Latinx women to prenatal care by adopting the Medicaid “unborn child” option.	X		X
Health	Extend Medicaid coverage to one year postpartum for women under 205% of poverty.	X		X
Housing	Protect Virginia residents from housing-related discrimination based on citizenship status through changes to the Virginia Fair Housing Law or other means.	X	X	
Open/Accessible Government	Return funding of Office of Diversity, Equity and Inclusion to 2008 levels.			X
Education	Allow all Virginians, regardless of their immigration status, to qualify for in-state tuition at Virginian’s colleges and universities.	X		X
Business	Reintroduce HB 1687 on nonpayment of wages; private cause of action by an employee.	X		X

JUSTIFICATIONS

PRIORITY AREA: HEALTH

A. Improve access of Latinx women to prenatal care by adopting the Medicaid “unborn child” option.

Compared to white non-Hispanic women, Hispanic or Latinx women in Virginia are less likely to receive prenatal care in the first trimester (79.5% vs **60.5%** in 2016-18)¹, more likely to be diagnosed with gestational diabetes (7.3 vs **19.3%** in 2009-13)², and more likely to pay for their delivery (3.1% vs **19.3%** in 2016-18)³.

As of January 2019, 16 states⁴ had adopted the Medicaid “unborn child” option (UCO)⁵, that allows Children’s Health Insurance Program (CHIP) funding for all income-eligible pregnant women, regardless of immigration status, to be eligible for Medicaid coverage for prenatal care. In a study of the impact of the “unborn child” option on children’s health, Hwang reported improvements in reported child health status, chronic health conditions and cognitive ability, suggesting that these improvements could be due to better maternal mental health during pregnancy.⁶ The author also calculated a net societal benefit of the UCO implementation at \$1 billion.

B. Improve access of Latinx women to postpartum care by extending Medicaid coverage to one year postpartum for women under 205% of poverty.

In Virginia, pregnant women living in households earning up to 205% of the US poverty level are eligible for Medicaid for 60 days postpartum. Thereafter, the Medicaid eligibility level is reduced to ≤138% of the poverty level. Thus, a significant number of women lose access to health care at a critical time for mother and baby.

Virginia’s high maternal mortality rate of 29.5 deaths per 100,000 live births⁷ demands immediate action. Increasing Medicaid coverage from 60 days to 1 year could decrease maternal mortality, particularly for those patients affected by chronic diseases. As stated in a recent study of the Virginia Maternal Mortality Review Team⁸:

Incomplete healthcare coverage outside of pregnancy (prior to becoming pregnant and after the postpartum period) is a contributor to maternal mortality in Virginia...over 62 percent of women⁹ with chronic condition died after the 6-week postpartum period (between 43 and 365 days of pregnancy termination).

¹ United States Department of Health and Human Services (US DHHS), Centers for Disease Control and Prevention (CDC), National Center for Health Statistics (NCHS), Division of Vital Statistics, Natality public-use data 2016-2018, on CDC WONDER Online Database, September 2019. Accessed at <http://wonder.cdc.gov/natality-expanded-current.html>.

² Virginia Department of Health, Virginia Pregnancy Risk Assessment Monitoring System. Gestational Diabetes, 2009-2013. Accessed at <http://www.vdh.virginia.gov/prams/data/>.

³ See note 1.

⁴ The States are Arkansas, California, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Washington and Wisconsin.

⁵ Kaiser Family Foundation. **Where Are States Today? Medicaid and CHIP Eligibility Levels for Children, Pregnant Women, and Adults.** March 31, 2019. Accessed at <https://www.kff.org/medicaid/fact-sheet/where-are-states-today-medicaid-and-chip/>

⁶ Hwang, G. The Impact of Access to Prenatal Health Insurance on Child Health and Development: Evidence from the Children’s Health Insurance Program Unborn Child Option, January 22, 2019. Accessed at <https://drive.google.com/file/d/1DS7eTrpUWM7hpCTSS58xL0fBVW9nvX-Gy/view>

⁷ United Health Foundation. **America’s Health Rankings. Health of Women and Children Report.** 2019. Accessed at <https://www.americashealthrankings.org/learn/reports/2019-health-of-women-and-children-report>

⁸ Virginia Maternal Mortality Review Team. **Chronic disease in Virginia pregnancy associated deaths, 1999-2012: Need for coordination of care.** August 2019.

⁹ Of women with a chronic disease who died of a pregnancy associated death.

At 19.6 deaths/100,000 live births¹⁰, US maternal mortality among Hispanic women is one of the lowest of any racial or ethnic group. Still, this rate is unacceptable – ten states have lower maternal mortality rates than 19.6. However, for Hispanic women, extending Medicaid’s postpartum coverage to one year can also significantly improve the health of Latinx mothers and children. For example, extending care may lower postpartum depression, increase duration of exclusive and any breastfeeding, improve parenting skills and confidence, and improve overall maternal and child health. For example, in the US, compared to white non-Hispanic infants, infants born to Latinx women are less likely to breastfeed exclusively at 6 months (29.1% vs **20.4%** in 2016)¹¹ Postpartum support for breastfeeding also results in a longer duration of breastfeeding, with many important benefits for maternal and child health.

PRIORITY AREA: HOUSING

Protect Virginia residents from housing-related discrimination based on citizenship status through changes to the Virginia Fair Housing Law or other means.

Landlords and property managers must follow local, state, and federal housing laws. The federal Fair Housing Act prohibits screening prospective tenants based on race, color, religion, sex, national origin, disability, or familial status¹². Under Federal Law, it is *not* illegal to ask housing applicants to provide documentation of their citizenship or immigration status; however, the landlord must have a legitimate basis for doing so. For example, if a landlord has a concern about whether prospective tenants can fulfill the terms of a lease, the landlord can seek this information. This is because if a person is only allowed to be in the country for another six months, but they want to sign a year-long lease, this may be a valid reason for denying the applicant. However, denying an applicant *solely* based on citizenship is not allowed.

To avoid potential problems, VLAB recommends removing any citizenship requirement from all lease agreements or through other appropriate changes to the Virginia Fair Housing Law. Questions about whether a tenant can meet the terms of a lease can be properly addressed through credit and other background checks that are applied to all applicants. We also recommend reminding landlords not to discriminate against prospective tenants, including that if they use citizenship as part of their tenant screening protocol, then the landlord should develop a policy and apply it uniformly in a non-discriminatory fashion. In other words, if a landlord wants to ask tenant applicants about their citizenship, then the landlord must ask it of all prospective tenants, not just those they suspect to be in the country illegally. Lastly, we recommend reminding landlords and tenants that if a tenant experiences discrimination, the tenant applicant should submit a claim with the Office of Fair Housing and Equal Opportunity (FHEO) and with the Virginia Department of Housing and Community Development (Virginia DHCD).

¹⁰ United Health Foundation. America’s Health Rankings. Health of Women and Children Report. 2019. Accessed at <https://www.americashealthrankings.org/learn/reports/2019-health-of-women-and-children-report>

¹¹ Centers for Disease Control and Prevention. Rates of Any and Exclusive Breastfeeding by Socio-demographics among Children Born in 2016. Accessed at https://www.cdc.gov/breastfeeding/data/nis_data/rates-any-exclusive-bf-socio-dem-2016.htm

¹² Section 109 of the Housing and Community Development Act of 1974-prohibits discrimination on the basis of race, color, national origin, sex or religion in any CDBG-funded program or activity (24 CFR 570.495(b)).

PRIORITY AREA: OPEN/ACCESSIBLE GOVERNMENT

Return funding of Office of Diversity, Equity and Inclusion to 2008 levels

The newly-established Office of Diversity, Equity and Inclusion in the Department of Human Resources Management has justifiably expanded its mission from one of compliance with laws, regulations and policies to one of promoting equity, diversity and inclusion in state government. This is a paradigm change requiring new approaches to recruitment, hiring, training, management, outreach, and customer relations. Restoring the office's budget to 2008 levels allows the Office to effectively carry out its expanded mission

PRIORITY AREA: EDUCATION

Allow all Virginians, regardless of their immigration status, to qualify for in-state tuition at Virginia's colleges and universities.

With an estimated [22,400 Virginians living in mixed-status households](#)¹³, policies to support immigrant students also stand to spark a ripple effect, improving the economic standing and contributions of their family members. The [Center for American Progress reports](#) that Virginia's DACA recipients, who are just a segment of the state's immigrant students and aspiring college graduates, contribute \$95 million in federal taxes and \$47.4 million in state and local taxes and have \$384 million in spending power annually.¹⁴

A number of Virginia organizations have analyzed and supported in-state tuition policies:

- Data from [the Commonwealth Institute's January 2019 In-state Tuition study](#) finds "the availability of in-state tuition rates at public colleges and universities for Virginians provides a pathway to better jobs and opportunities that benefits students and the state economy."¹⁵
- Noting that "education is the backbone of a successful economy, family, and community," a [Virginia Interfaith Center for Public Policy report](#)¹⁶ calls on Virginia to join the twenty states¹⁷ allowing all residents access to in-state tuition.
- The Virginia Latino Leaders Council has advocated in support of in-state tuition¹⁸, recognizing that the Commonwealth is losing out on a stronger economy and workforce by not providing in-state tuition for students who face barriers due to immigration status.
- Upon the failure of the state legislature to pass bills providing in-state tuition to immigrant students in 2108, Yanet Amado of the Virginia Intercollegiate Immigrant Alliance, a member organization of [Virginia Coalition for Immigrant Rights](#), expressed sentiments shared by many others when [she said](#), "We're disappointed that the state government doesn't do more to help undocumented students in Virginia. The General Assembly keeps deferring back to the federal government to help undocumented students, but the state can give us opportunities for education and investment in the Commonwealth."¹⁹

¹³ Center for American Progress. What we know about DACA recipients, by State. Accessed at <https://www.americanprogress.org/issues/immigration/news/2019/09/12/474422/know-daca-recipients-state/>

¹⁴ Ibid.

¹⁵ Goren, L. Update: In-state tuition is still a common sense, low-cost investment for Virginia. The Commonwealth Institute. January 2019. Accessed at <https://www.thecommonwealthinstitute.org/2019/01/16/update-in-state-tuition-is-a-common-sense-low-cost-investment-for-virginia/>

¹⁶ Virginia Interfaith Center. In-state tuition for all Virginians. Accessed at <https://www.virginiainterfaithcenter.org/in-state-tuition/>

¹⁷ California, Colorado, Connecticut, Florida, Hawaii, Illinois, Kansas, Maryland, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, and Washington.

¹⁸ Virginia Latino Leaders Council. Follow up to VLLC working meeting with the Governor. Accessed at <https://www.virginalatinoleaderscouncil.org/>

¹⁹ Progress Virginia. Undocumented students failed again after Senate panel kills in-state tuition bill. March 6, 2018. Accessed at <https://progressva.org/news-release/undocumented-students-failed-again-after-senate-committee-kills-in-state-tuition-bill/>

The [National Conference of State Legislatures’ analysis of tuition benefits for immigrants](#) across the U.S. notes a number of potential models in addition to legislative action that states are pursuing to support immigrant students.²⁰ NCSL states:

- At least seven state university systems²¹ established policies to offer in-state tuition rates to immigrant students.
- While Delaware has considered but not yet enacted legislation, two of its higher education institutions allow undocumented students to be eligible for in-state tuition and financial aid.
- At least nine states²² offer state financial assistance to certain undocumented immigrant students including DACA students.
- Several states, including Utah, allow public universities to use private sources of funding to support financial aid to unauthorized immigrant students.

PRIORITY AREA: BUSINESS

Reintroduce HB 1687 on nonpayment of wages; private cause of action by an employee

The 2018-19 VLAB report recognized the proposal of the Virginia Interfaith Center for Public Policy (VICPP) to reduce wage theft through the creation of a private cause of action for employees (see p. 18 of VLAB Report). Through this addendum, VLAB recommends the reintroduction of the 2019 HB 1687 that “provides that an employee has a private cause of action against an employer who fails to pay wages to recover the amount of wages due plus interest at eight percent annually from the date the wages were due. If the court finds that the employer knowingly failed to pay wages, the court shall award the employee reasonable attorney fees and other costs. If the court finds that the employer's failure to pay wages was willful and with intent to defraud the employee, the court shall also award the employee three times the amount of wages due.” VLAB endorses the [fact sheet](#) prepared by the Virginia Interfaith Center for Public Policy that highlights the inequity in Virginia law that affords a private cause of action, including reimbursement for attorneys’ fees, to consumers but not to employees.²³

²⁰ National Conference of State Legislatures. Tuition benefits for immigrants. September 26, 2019. Accessed at <http://www.ncsl.org/research/immigration/tuition-benefits-for-immigrants.aspx>

²¹ Hawaii, Kentucky, Maine, Michigan, Ohio, Oklahoma and Rhode Island

²² California, Connecticut, Maryland, Minnesota, New Jersey, New Mexico, Oregon, Texas and Washington

²³ Virginia Interfaith Center for Public Policy. 2020 Legislative Priorities. Accessed at <https://www.virginiainterfaithcenter.org/general-assembly-2020/>.