

No. 25-2120

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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NATIONAL TPS ALLIANCE, *et al.*,  
*Plaintiffs and Appellees,*

v.

KRISTI NOEM, *et al.*,  
*Defendants and Appellants.*

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**On Appeal from the United States District Court  
for the Northern District of California**  
District Court Case No. 3:25-cv-1766

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**BRIEF FOR STATES OF CALIFORNIA, NEW YORK,  
CONNECTICUT, DELAWARE, HAWAII, ILLINOIS, MAINE,  
MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA,  
NEVADA, NEW JERSEY, OREGON, RHODE ISLAND, VERMONT,  
WASHINGTON, AND THE DISTRICT OF COLUMBIA AS AMICI  
CURIAE IN SUPPORT OF APPELLEES AND AFFIRMANCE**

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## INTRODUCTION AND INTERESTS OF AMICI CURIAE

In the orders that are the subject of this appeal, defendants purported to prematurely terminate Temporary Protected Status (TPS) for hundreds of thousands of Venezuelan citizens who live peacefully and productively throughout the United States. Those orders threaten not only to abruptly upend the lives and livelihoods of individual TPS holders, but also to cause immeasurable and irreparable injuries to the communities in which those TPS holders reside. In the decision below, the district court correctly concluded that defendants' orders are likely contrary to law, arbitrary and capricious, and motivated by unconstitutional animus—and that the harm that those orders threaten to inflict is severe enough to warrant postponing the orders' effective date at least until plaintiffs' claims are fully adjudicated on their merits. Amici States respectfully submit this brief in support of that decision.<sup>1</sup>

While amici support plaintiffs on all of the issues in this appeal, this brief addresses issues that the States are especially well suited to shed light on: the irreparable harms to the public interest that would result from defendants' orders. The district court relied extensively on evidence proffered by Amici States in

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<sup>1</sup> The Amici States are California and New York, together with Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, Oregon, Rhode Island, Vermont, Washington, the District of Columbia, and the Commonwealth of Massachusetts. This brief is filed pursuant to Federal Rule of Appellate Procedure 29(a)(2).

finding that defendants’ actions would “inflict irreparable harm on hundreds of thousands of persons whose lives, families, and livelihoods will be severely disrupted, cost the United States billions in economic activity, and injure public health and safety in communities throughout the United States.” ER 4. This Court should reach the same conclusion.

The Amici States are home to at least 99,900 Venezuelan immigrants, the majority of whom are covered by TPS.<sup>2</sup> These families have fled violence, oppression, and poverty in their home country, and now make meaningful contributions to our States’ economies, public health, and public safety. Accordingly, our States have worked hard to welcome them. For example, California historically allocated \$10 million annually to provide legal services to TPS holders and will continue to dedicate resources to this important community through its funding for the immigrant community as a whole—including \$45 million annually to support legal services, education, and technical assistance to

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<sup>2</sup> See Migration Policy Inst., *U.S. Immigrant Population by State and County*, <https://tinyurl.com/mrxz97ja> (last visited June 2, 2025); Ana Alanis Amaya & Jeanne Batalova, *Venezuelan Immigrants in the United States*, Migration Policy Inst. (Feb. 6, 2025), <https://tinyurl.com/Venezuelan-Immigrants-in-US>; Verónica Egui Brito & Syra Ortiz Blanes, *In a Few Weeks, Hundreds of Thousands of Venezuelans Will Lose TPS. What You Need to Know*, Miami Herald (Feb. 13, 2025), <https://tinyurl.com/Venezuelans-Will-Lose-TPS> (as of December 2024, around 600,000 Venezuelans had been approved for TPS).

community organizations.<sup>3</sup> New York has also dedicated substantial resources and support to Venezuelan TPS holders, including by assisting with work authorization applications and connecting these TPS holders to employers.<sup>4</sup>

In short, the Amici States have made a substantial investment in Venezuelan and other TPS holders. And far from being a burden or threat to our States, Venezuelan TPS holders provide resounding benefits. They are homeowners and neighbors, co-workers, teachers and students, entrepreneurs and job-creators, caregivers, construction workers and union members, and parents. Stripping these individuals of legal status would harm our residents, our economies, and our public health and safety. The Amici States thus have a critical interest in ensuring that their legal status is not unlawfully revoked. The district court's order upholding that status should be affirmed.<sup>5</sup>

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<sup>3</sup> Cal. Legis. Analyst's Off., *The 2024-2025 Budget: Department of Social Services Immigration and Equity Programs* (Mar. 15, 2024), <https://tinyurl.com/24-25-Budget>.

<sup>4</sup> State of New York, *Governor Hochul, Mayor Adams Announce \$38 Million for Asylum Seeker Legal Services and Case Management* (Oct. 3, 2023), <https://tinyurl.com/38-million-for-asylum>.

<sup>5</sup> The Supreme Court recently stayed the district court's postponement order, but its ruling was not a final resolution of the merits. *See Noem v. Nat. TPS All.*, No. 24A105, 605 U.S. ---- (May 19, 2025).

## ARGUMENT

### THE DISTRICT COURT CORRECTLY DETERMINED THAT THE PUBLIC INTEREST FAVORS POSTPONEMENT BECAUSE DHS’S ACTIONS WILL HARM FAMILIES AND THE AMICI STATES

As the district court observed (ER 31-32), a postponement motion under 5 U.S.C. § 705 is generally assessed under the same factors that would apply to a preliminary injunction motion. *See, e.g., Immigr. Legal Res. Ctr. v. Wolf*, 491 F. Supp. 3d 520, 529–30 (N.D. Cal. 2020). One of those factors is whether preliminary relief is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008); *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009). In cases like this one, which affects many non-parties (including the Amici States), the hardship to third parties is integral to the public interest analysis. *See Golden Gate Rest. Ass’n v. City & Cnty. of S.F.*, 512 F.3d 1112, 1126–27 (9th Cir. 2008).

Here, the district court correctly considered and properly weighed the many ways in which defendants’ orders would injure third parties and the public interest—including harms to TPS holders’ family members;<sup>6</sup> to employment and

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<sup>6</sup> *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (citing “indirect hardship to [plaintiffs’] friends and family members,” including harm to children who “had to receive counseling because of the trauma of their government-compelled separation from their father”) (citation omitted).

the economy;<sup>7</sup> to the public health and related expenditures;<sup>8</sup> and to public safety.<sup>9</sup> See ER 32-45. The court also rejected defendants’ claim that these harms “are not cognizable because they are inherent to the temporary nature of TPS.” ER 38 (noting that the “fixed period” for TPS protection affords stability and security, and that “time matters, even if that time is limited”). Ultimately, as explained below and in plaintiffs’ answering brief (Pl.’s Br. 61-64), the district court properly exercised its discretion in determining that the public interest favors postponing defendants’ actions. See, e.g., *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1292 (9th Cir. 2013).

**A. Family Separation Will Devastate Children and Fracture Amici States’ Communities and Schools.**

The families of Venezuelan TPS holders, many of whom live in the Amici States, will be profoundly harmed if the vacatur and termination are not postponed. In 2022, approximately 54,000 U.S. citizen children and 80,000 U.S. citizen adults

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<sup>7</sup> *Nat’l Ass’n of Mfrs. v. U.S. Dep’t of Homeland Sec.*, 491 F. Supp. 3d 549, 571 (N.D. Cal. 2020) (enjoining limitation on certain nonimmigrant work visas and noting harms to “hundreds of thousands of American businesses of all sizes and economic sectors”).

<sup>8</sup> See *Golden Gate Rest. Ass’n*, 512 F.3d at 1126 (citing municipality’s “overall health care expenses”); *City & Cnty. of S.F. v. USCIS*, 981 F.3d 742, 762 (9th Cir. 2020) (affirming injunction against DHS’s redefinition of “public charge,” acknowledging that the rule would have “adverse effects on the health and welfare of the immigrant as well as general population”).

<sup>9</sup> *Earth Island Inst. v. Elliott*, 290 F. Supp. 3d 1102, 1125 (E.D. Cal. 2017) (examining public safety implications of proposed injunction on Forest Service tree removal project).

lived with a TPS-eligible Venezuelan immigrant.<sup>10</sup> Thus, over 130,000 U.S. citizens lived in “mixed status” households with individuals whom DHS seeks to unlawfully strip of their legal status—and this figure does not account for the hundreds of thousands of Venezuelans who were newly eligible under the 2023 designation. Terminating TPS would create extreme hardship for these households, withdrawing their members’ work authorization and exposing them to the threat of deportation.

Compelling these TPS holders to return en masse to Venezuela would also pose substantial dangers to many members of the Amici States’ communities. The collapse of Venezuela’s oil-dependent economy over the past ten years has triggered widespread violence and severe shortages of food, medicine, and other necessities.<sup>11</sup> The calamity has been described as “an unrelenting humanitarian crisis.”<sup>12</sup> In extending Venezuelan TPS on January 17, 2025, then-Secretary of Homeland Security Alejandro Mayorkas explained that Venezuela’s “humanitarian emergency [is] marked by an economic contraction, deepening poverty, reduced

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<sup>10</sup> FWD.us, *Temporary Protected Status Protects Families While Also Boosting the U.S. Economy* (Feb. 2024), <https://tinyurl.com/TPS-Protects-Families>.

<sup>11</sup> USCIS, 2021 Designation of Venezuela for Temporary Protected Status, 86 Fed. Reg. 13574 (Mar. 9, 2021), <https://tinyurl.com/2021-Venezuelan-Designation>.

<sup>12</sup> Iván Reyes, *As Election Looms, Venezuelans See-Saw Between Hope and Fear*, *The New Humanitarian* (July 8, 2024), <https://tinyurl.com/Venezuelans-See-Saw>.

access to food and medicine, a collapse in basic services, fuel shortages, human rights abuses and political repression, [and] crime and violence . . . .”<sup>13</sup> He supported his conclusion with 52 sources, whereas Secretary Noem did not rely on a single source for her subsequent, unsubstantiated claim that there were “notable improvements in several areas” in Venezuela.<sup>14</sup>

At the time of Secretary Noem’s decision, the U.S. State Department classified (and still classifies) Venezuela as a “Level 4: Do Not Travel” country—its highest risk designation—warning of the “high risk of wrongful detentions, terrorism, kidnapping, the arbitrary enforcement of local laws, crime, civil unrest, [and] poor health infrastructure.”<sup>15</sup> As a result of this persistent instability, more than one-quarter of Venezuela’s population, about 7.7 million people, has fled the country.<sup>16</sup> Indeed, the United States suspended embassy and consular operations in

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<sup>13</sup> USCIS, Extension of the 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 5961 (Jan. 17, 2025), <https://tinyurl.com/Extension-of-2023-Designation>.

<sup>14</sup> Nat’l Found. for Am. Policy, *An Analysis of the DHS Decision to Terminate TPS for Venezuela* 1 (Feb. 2025), <https://tinyurl.com/DHS-Decision-Analysis>; see USCIS, Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 9040 (Feb. 5, 2025), <https://tinyurl.com/Termination-2023-Designation>.

<sup>15</sup> U.S. Dep’t of State, *Venezuela Travel Advisory* (May 12, 2025), <https://tinyurl.com/VE-Travel-Adv>.

<sup>16</sup> Karen Aho, *Spotlight on the Economic Contributions of TPS Holders*, Immigration Impact (Oct. 23, 2023), <https://tinyurl.com/Economic-Contributions-TPS>.



Venezuela in 2019 and, to date, such operations remain unavailable in the country.<sup>17</sup>

Against that backdrop, revoking Venezuela’s TPS designation would put current TPS holders—particularly those with U.S. citizen children, many of whom live in the Amici States—to an agonizing choice. As the district court recognized (ER 34), TPS-holder parents in this situation will be forced to choose between (1) returning to Venezuela alone, leaving their children behind in broken families or in the foster care system;<sup>18</sup> (2) taking their U.S. citizen children with them to a dangerous country that the children do not know; or (3) staying in the United States and retreating into the shadows, knowing that they cannot work legally and could be forcibly removed to Venezuela at any time.

This harrowing dynamic would severely harm the mental health and well-being of countless U.S.-citizen children who reside in the Amici States. Children of undocumented parents living in the United States frequently experience persistent anxiety, driven by the constant fear that a family member may be deported.<sup>19</sup> This fear can profoundly shape their daily lives. One study found that 30 percent of Latino student participants—including those born in the United States—altered

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<sup>17</sup> U.S. Dep’t of State, *supra* note 15.

<sup>18</sup> Am. Immigr. Council, *U.S. Citizen Children Impacted by Immigration Enforcement* (June 24, 2021), <https://tinyurl.com/Citizen-Children-Impacted>.

<sup>19</sup> Ronald B. Cox et al., *Validation of the Family Fear of Deportation Scale for Youth*, 72 *Family Relations* 734, 736 (2023).

their routines due to deportation fears.<sup>20</sup> This included refraining from driving, seeking medical care, attending religious services, or participating in afterschool activities; taking a different route to school; and staying at home more often.<sup>21</sup> These harms would have ripple effects throughout the Amici States and their schools, with far-reaching and long-term consequences. Indeed, a recent profile of a California school district noted that “fear is everywhere” and “rumors about ICE sweeps abound.”<sup>22</sup> As a result, families are “afraid to go to school.”<sup>23</sup>

When these fears materialize and families are forcibly separated, the consequences are even more severe. Research on U.S.-born Latino children reveals that parental deportation is a deeply traumatic and disruptive event, linked to extreme psychological distress, anxiety, depression, post-traumatic stress disorder (PTSD), externalizing behaviors (such as aggression), and difficulties sleeping.<sup>24</sup> Beyond emotional and psychological harm, these children often face additional

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<sup>20</sup> Randy Capps et al., *Immigration Enforcement and the Mental Health of Latino High School Students*, Migration Policy Inst. 1, 2–3 (Sept. 2020).

<sup>21</sup> *Id.*

<sup>22</sup> Carolyn Jones, ‘Afraid to Go to School’: Immigrant Families in Salinas Are Gripped by Fear, San Gabriel Valley Tribune (Feb. 20, 2025), <https://tinyurl.com/afraid-to-go-to-school>.

<sup>23</sup> *Id.*

<sup>24</sup> Miguel Pinedo & Christian Escobar, *Childhood Parental Deportations, Immigration Enforcement Experiences, and Posttraumatic Stress Disorder Among US-Born Latino Adults, 2021*, 114 Am. J. Pub. Health S495, S496 (2024); see also Victoria D. Ojeda et al., *Deported Men’s and Father’s Perspective: The Impacts of Family Separation on Children and Families in the U.S.*, 11 Frontiers in Psychiatry 1, 10 (2020).

hardships, including financial instability, housing and food insecurity, and disruptions in their education, such as increased school absences and lower academic engagement.<sup>25</sup> Bullying related to immigration status is also common.<sup>26</sup> And the long-term effects extend into adulthood. Adults who experienced parental deportation during childhood are more than twice as likely to suffer from PTSD as those who did not endure such separation.<sup>27</sup>

The harms associated with the TPS termination are particularly acute given the whiplash nature of the Administration’s abrupt policy change. Less than two years ago, approximately 472,000 Venezuelans qualified for protection under the 2023 designation.<sup>28</sup> Secretary Mayorkas’s January 17, 2025, extension gave these individuals assurance that they would remain protected through October 2, 2026.<sup>29</sup> As the district court recognized, such extensions have never before been vacated—even after a change in administration. ER 2. Yet just 11 days later, in a “vacatur”

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<sup>25</sup> Ojeda et al., *supra* note 24, at 7, 9, 10; Ana Martinez-Donate et al., *Between the Lines: A Mixed-Methods Study on the Impacts of Parental Deportation on the Health and Well-Being of U.S. Citizen Children*, 9 J. Migration & Health 1, 5, 7 (2024).

<sup>26</sup> Mallika Seshadri, *Research: Immigration Enforcement Hinders Schoolwork; Schools Offer Support*, EdSource (Feb. 16, 2024), <https://tinyurl.com/Hinders-Schoolwork>.

<sup>27</sup> Pinedo & Escobar, *supra* note 24, at S501.

<sup>28</sup> USCIS, Extension and Redesignation of Venezuela for Temporary Protected Status, 88 Fed. Reg. 68130 (Oct. 3, 2023), <https://tinyurl.com/Extension-and-Redesignation>.

<sup>29</sup> USCIS, *Extension of the 2023 Designation*, *supra* note 13.

without precedent, the new Administration shattered the plans and prospects of countless families when it reversed course while, at the same time, falsely accusing law-abiding TPS holders of being gang members and a threat to national security.

The fracturing of Venezuelan families would have far-reaching impacts on children, their families, and on the Amici States in which they live. The public interest strongly favors preserving the unity of these families.

**B. Economies and Workforces Will be Harmed.**

The termination of Venezuela’s TPS designation would also substantially harm the Amici States’ economies—including by depleting the States’ workforces and depriving them of considerable tax revenue. Indeed, the district court found that Amici’s submissions “underscore the economic contributions made by TPS holders generally, and Venezuelan TPS holders specifically, because they work, spend, and pay taxes.” ER 40.

The annual economic contribution of TPS-eligible Venezuelans is \$11.5 billion.<sup>30</sup> Seventy-five percent of Venezuelan immigrants 16 and older were formally employed in 2023,<sup>31</sup> with high rates of participation in industries such as transportation, material moving, natural resources, construction, and

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<sup>30</sup> FWD.us, *supra* note 10 at 2. “TPS-eligible” includes those who hold TPS as well as those who qualify for TPS but may not have applied or whose application has not yet been granted. *Id.* at 5.

<sup>31</sup> Amaya & Batalova, *supra* note 2.

maintenance.<sup>32</sup> Because 48 percent of Venezuelan immigrants have attained at least a bachelor's degree, the community is well-positioned to contribute to a variety of sectors.<sup>33</sup> Moreover, a recent estimate found that 143,000 TPS-eligible Venezuelans work in labor-short industries, defined as those with openings for at least 4 percent of their workforce.<sup>34</sup> As a group, TPS holders from all countries have also shown high rates of entrepreneurship—14.5 percent of TPS holders are self-employed, as compared with 9.3 percent of the U.S.-born workforce.<sup>35</sup> The 2021 TPS population included more than 38,100 entrepreneurs, or self-employed workers, who generated \$1.5 billion in business income.<sup>36</sup> In California alone, 7,800 self-employed TPS holders generated \$224.8 million in business income.<sup>37</sup>

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<sup>32</sup> *Id.*; see also ABC Newsline, *Learn About Recent Immigration Actions Under the Trump Administration*, (Feb. 10, 2025), <https://tinyurl.com/Recent-Immigration-Actions> (national trade organization representing more than 23,000 members through 67 chapters, calling for “protections for TPS recipients, who have been members of the construction industry workforce for years” and estimating between 70,000-100,000 TPS and DACA recipients work in the construction industry); see also Kevin Williams, *What Trump's Mass Deportation Plan Would Mean for Immigrant Workers and the Economy*, CNBC (Nov. 11, 2024), <https://tinyurl.com/Mass-Deportation-Plan> (reporting estimates from construction, housing, and technology industries that mass deportations including TPS individuals, would shrink U.S. GDP by \$1.1 trillion to \$1.7 trillion).

<sup>33</sup> See Amaya & Batalova, *supra* note 2.

<sup>34</sup> FWD.us, *supra* note 10, at 2.

<sup>35</sup> Aho, *supra* note 16.

<sup>36</sup> Am. Immigr. Council, *The Contributions of Temporary Protected Status Holders to the U.S. Economy* 4 (Sept. 2023), <https://tinyurl.com/TPS-Economy>.

<sup>37</sup> *Id.*

These workforce contributions generate substantial state and federal tax revenue. In 2023, TPS holders from all countries paid \$3.1 billion in federal taxes, contributing to programs like Social Security and Medicare, and paid \$2.1 billion in state and local taxes.<sup>38</sup> These contributions were particularly high in several of the Amici States. For example, California TPS households earned \$2.1 billion in income, paid \$291.2 million in federal taxes, \$226.5 million in state and local taxes, and contributed \$1.6 billion in spending power.<sup>39</sup> In New York, TPS households earned \$2.3 billion in income, paid \$348.9 million in federal taxes, \$305.5 million in state and local taxes, and also contributed \$1.6 billion in spending power.<sup>40</sup> Moreover, at least 41 percent of TPS households are homeowners and pay taxes on property having a total value of approximately \$19 billion.<sup>41</sup>

Revoking Venezuela's TPS designation would endanger all these economic contributions. Many current TPS holders would have no choice but to return to Venezuela, taking their economic contributions with them. And those who remain in the country would be stripped of their work authorization, causing them to lose

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<sup>38</sup> See Am. Immigr. Council, *Map the Impact: Immigrants in the United States* (updated 2024), <https://tinyurl.com/4yn722kh>.

<sup>39</sup> Am. Immigr. Council, *Map the Impact: Immigrants in California* (updated 2024), <https://tinyurl.com/5t3by8dw>.

<sup>40</sup> Am. Immigr. Council, *Map the Impact: Immigrants in New York* (updated 2024), <https://tinyurl.com/Immigrants-NY>.

<sup>41</sup> Aho, *supra* note 16.

their current employment and forcing them to accept lower paying “off the books” jobs. The result would be lower wages and less productivity in the Amici States’ economies. The average wage gap between undocumented and legal immigrants exceeds 35 percent,<sup>42</sup> with particularly acute impacts for undocumented women. In California, for example, undocumented women make 58 cents for every dollar paid to all men, 44 cents compared to white men, and 67 cents for every dollar paid to all women.<sup>43</sup> Such lower-wage, unauthorized employment would also inevitably lead to a decline in tax revenues for the Amici States. And the Amici States would likely face a wave of mortgage foreclosures if current TPS holders are forced suddenly to leave the country or else to accept lower-paid employment, thus harming property values and reducing property tax receipts.<sup>44</sup>

The TPS-holder community, including Venezuelans, are dynamic contributors to Amici States’ economies. Terminating their legal status will cause substantial harms to Amici States’ economies, workforces, and tax revenue.

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<sup>42</sup> See George J. Borjas & Hugh Cassidy, *The Wage Penalty to Undocumented Immigration*, 61 Lab. Econ. 1, 2 (2019), <https://tinyurl.com/Wage-Penalty>.

<sup>43</sup> Alejandra Reyes-Velarde, ‘Double Disadvantage’: These California Workers’ Pay Gap Is Widest by Far, CalMatters (July 27, 2023), <https://tinyurl.com/CA-Workers-Pay-Gap>.

<sup>44</sup> See Jacob S. Rugh & Matthew Hall, *Deporting the American Dream: Immigrant Enforcement and Latino Foreclosures*, 3 Socio. Science 1053, 1067-68 (2016).

**C. Public Health Will be Compromised and Health Care Costs Will Increase.**

A sudden termination of Venezuela’s TPS designation will also have significant negative effects on public health in the Amici States and around the country. For example, 67 percent of Venezuelan immigrants are covered by private health insurance (often through employer-sponsored insurance programs).<sup>45</sup> Defendants’ abrupt decision to end work authorization for hundreds of thousands of Venezuelan TPS holders will deprive many of those individuals and their families of their employer-sponsored health insurance.

As the district court observed (ER 41), the result will be to sharply increase the Amici States’ health care expenditures—both by increasing the proportion of Venezuelan immigrants who are on public health insurance (currently 18 percent<sup>46</sup>), and by increasing public expenditures on emergency care provided to uninsured patients (e.g., through emergency health insurance, payments to hospitals and community health centers, and funding for public health programs<sup>47</sup>). Avoiding such costs is an important public interest weighing in favor of

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<sup>45</sup> See Ana Alanis Amaya & Jeanne Batalova, *Venezuelan Immigrants in the United States* (Feb. 6, 2025), <https://tinyurl.com/Venezuelan-Immigrants-in-US>.

<sup>46</sup> See *id.*

<sup>47</sup> See, e.g., U.S. Cong. Budget Off., *The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments* 8 (Dec. 2007), <https://www.cbo.gov/sites/default/files/110th-congress-2007-2008/reports/12-6-immigration.pdf>; Am. Compl., Ex. 83, Decl. of Jesse M. Caplan, *New York v. Trump*, 1:17-cv-5228 (E.D.N.Y. Oct. 4, 2017), ECF No. 55-83 (“Caplan Decl.”).



postponement. And while it is true that TPS-based work authorization (upon which employer-based health insurance depends) is a temporary benefit (*see* U.S. Br. 45-46), defendants’ unprecedented decision to revoke Venezuela’s TPS designation prior to its scheduled termination (*see* 8 U.S.C. § 1254a(b)(3)(B)) will unduly burden the Amici States with costs and expenditures for which neither the States nor their residents could have planned or budgeted.

Moreover, stripping legal status from hundreds of thousands of Venezuelan immigrants would risk serious negative consequences for public health and the public interest.<sup>48</sup> As courts have noted in other contexts, the “[p]ublic health is served when individuals freely seek preventive care and do not stave off care until they need emergency room treatment in the midst of a health crisis.” *E.g.*, *Philadelphia v. Sessions*, 280 F. Supp. 3d 579, 609 (E.D. Pa. 2017), *subsequent judgment aff’d in relevant part*, 916 F.3d 276 (3d Cir. 2019). For example, the public greatly benefits when residents seek out diagnostic testing for and treatment of (or vaccination against) infectious diseases such as COVID-19, tuberculosis,

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<sup>48</sup> *See, e.g.*, App. in Supp. of Pls.’ Mot. for Provisional Relief at 789-90, *Regents of Univ. of Cal. v. United States Dep’t of Homeland Sec.*, No. 3:17-cv-05211 (N.D. Cal. Nov. 1, 2017), ECF No. 118-1; Caplan Decl., *supra* note 47; Meredith L. King, *Immigrants in the U.S. Health Care System: Five Myths That Misinform the American Public*, Ctr. for Am. Progress 6 (2007), <https://tinyurl.com/Immigrants-Health-Care>.

and HIV.<sup>49</sup> But as studies have consistently found for decades, undocumented immigrants are often reluctant to seek medical treatment due to fear of detention and deportation.<sup>50</sup> This phenomenon is so well documented that health-care providers often take significant steps to combat it—as where one clinic “placed itself right next to a Baptist church in order to prevent raids by [ICE] agents that would scare away its mostly undocumented users.”<sup>51</sup>

Against this well-understood backdrop, stripping Venezuelan immigrants of lawful status (via mass revocation of TPS) would risk significant public health consequences. As the district court found (ER 42), many immigrants would not

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<sup>49</sup> See, e.g., Cassandra D. Kelly-Cirino et al., *Importance of Diagnostics in Epidemic and Pandemic Preparedness*, 4 BMJ Glob. Health 1, 1, 6-7 (2018); Mark Perkins et al., *Diagnostic Preparedness for Infectious Disease Outbreaks*, 390 The Lancet 2211, 2211 (2017); Alejandro Portes et al., *The U.S. and Immigration: An Institutional Interpretation*, 24 Socio. Forum 487, 501-502, 506 (2009).

<sup>50</sup> See, e.g., Sezer Kisa & Adnan Kisa, “No Papers, No Treatment”: *A Scoping Review of Challenges Faced by Undocumented Immigrants in Accessing Emergency Healthcare*, 23 Int’l J. for Equity in Health, no. 184, at 2, 6, 8 (2024); Omar Martinez et al., *Evaluating the Impact of Immigration Policies on Health Status Among Undocumented Immigrants: A Systematic Review*, 17 J. Immigr. & Minority Health 947, 966 (2015) (immigrants often “refrain from seeking vital services, including medical services, from any local government or private agency—even agencies unrelated to law enforcement—for fear of exposing themselves or their family members to legal sanctions or harassment”); Scott D. Rhodes et al., *The Impact of Local Immigration Enforcement Policies on the Health of Immigrant Hispanics/Latinos in the United States*, 105 Am. J. Pub. Health 329, 332 (Feb. 2015) (immigrants reported that they “did not access or utilize health services for which they were eligible, including preventive services,” because “[t]hey worried that . . . their lack of documentation . . . would put them at risk for detention and deportation.”).

<sup>51</sup> Portes et al., *supra* note 49, at 506.

only lose employer-sponsored health care but would also be discouraged from seeking medical treatment of any kind due to fear of deportation. This would increase the broader community risk and would have many adverse results for individual immigrants and their families. For example, undocumented women are less likely to receive needed health care and preventive screenings than the general U.S. population—leading to significantly higher rates of conditions like cervical cancer, birth complications, neonatal morbidity, respiratory distress syndrome, and seizures for newborns.<sup>52</sup>

And newly undocumented former TPS holders may also elect not to seek treatment for their children or other family members—who may themselves be natural-born U.S. citizens.<sup>53</sup> For example, studies show that children of undocumented immigrants are often sicker when seeking emergency room care and frequently miss preventive annual exams.<sup>54</sup> The results can be fatal, as where a

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<sup>52</sup> Am. Coll. of Obstetricians & Gynecologists, Comm. Op. no. 627, *Health Care for Unauthorized Immigrants*, 125 *Obstetrics & Gynecology* 755, 756 (Mar. 2015); *see also* Am. Coll. of Obstetricians & Gynecologists, Comm. Statement no. 4, *Health Care for Immigrants*, 141 *Obstetrics & Gynecology* 427, 428-29 (2023).

<sup>53</sup> *See* Lila Flavin et al., *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review* 48 *Int'l J. Health Servs.* 601, 617-18 (2018).

<sup>54</sup> *See* King, *supra* note 48, at 7; Katherine Yun et al., *Parental Immigration Status Is Associated with Children's Health Care Utilization: Findings from the 2003 New Immigrant Survey of U.S. Legal Permanent Residents*, 17 *Maternal & Child Health J.* 1913, 1916-19 (2013).

child in Oklahoma died “when his parents delayed seeking medical treatment because they feared that hospital officials would report them to ICE.”<sup>55</sup>

Because terminating Venezuela’s TPS designation would strip status from a significant population of immigrants in the Amici States, and because such a shift would both raise healthcare costs and pose grave substantive risks to public health, the public interest weighs in favor of postponement.

**D. Public Safety Will Suffer and Communities Will Hesitate to Report Crime.**

The Amici States have strong interests in effective law enforcement and protection of public safety, at both the state and local levels. Terminating Venezuela’s TPS status would make effective law enforcement and protection of public safety more difficult.

Because TPS holders and their families have built lives in the United States, some may try to stay in this country even if their TPS status is terminated. But individuals who lack legal status are less likely to report crime—even crimes in which they themselves are victims—out of “fear that [officials] will ask . . . about [their] immigration status” and increase their perceived risk of being removed.<sup>56</sup>

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<sup>55</sup> Elizabeth M. McCormick, *Federal Anti-Sanctuary Law: A Failed Approach to Immigration Enforcement and A Poor Substitute for Real Reform*, 20 Lewis & Clark L. Rev. 165, 199 (2016).

<sup>56</sup> See, e.g., Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, Dep’t of Urb. Plan. & Pol’y, Univ. of Ill. at Chi. 14 (May 2013), <https://tinyurl.com/Insecure-Communities>.

*See* ER 42. Fear of removal, or of having a family or community member removed, makes victims and witnesses reluctant to come forward, to testify in court, and even to seek safety in a domestic violence shelter.<sup>57</sup> When law enforcement is unable to obtain evidence of crimes and maintain witness cooperation at trial, public safety suffers.<sup>58</sup>

This public interest is particularly weighty (and the TPS termination is particularly irrational) in view of the Administration’s expressed concern regarding the Venezuelan gang Tren de Aragua. *See* ER 43-44. Discouraging innocent Venezuelan witnesses from coming forward will hinder law enforcement efforts to combat this gang (which the federal government has designated a “foreign terrorist organization”) as well as other criminal organizations and individuals.<sup>59</sup> And there is no plausible counterargument that terminating Venezuela’s TPS status would

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<sup>57</sup> James Queally, *Fearing Deportation, Many Domestic Violence Victims Are Steering Clear of Police and Courts*, L.A. Times (Oct. 9, 2017), <https://tinyurl.com/Undocumented-Crime-Reporting>.

<sup>58</sup> *See, e.g.*, Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, Ctr. for Am. Progress, Ctr. for Am. Progress (Jan. 26, 2017), <https://tinyurl.com/Effects-of-Sanctuary-Policies> (sanctuary counties have lower crime rates than comparable nonsanctuary counties); *see also* Queally, *supra* note 57 (quoting former San Francisco District Attorney George Gascón’s concern that “severe injury or homicide” can result when domestic violence is unreported).

<sup>59</sup> *See* U.S. Dep’t of State, Foreign Terrorist Organization Designations of Tren de Aragua, Mara Salvatrucha, Cartel de Sinaloa, Cartel de Jalisco Nueva Generacion, Carteles Unidos, Cartel del Noreste, Cartel del Golfo, and La Nueva Familia Michoacana, 90 Fed. Reg. 10030 (Feb. 20, 2025), <https://tinyurl.com/Foreign-Terror-Designations>.

somehow reduce crime or facilitate the removal of noncitizens convicted of crimes from the country. Contrary to unsubstantiated contentions, recent arrivals of immigrants, including Venezuelans, have not led to any “crime wave.”<sup>60</sup> *See* ER 42-43. Moreover, TPS applicants must meet specified criteria to be granted that status, including screenings for criminal history and background checks.<sup>61</sup> And conviction for certain criminal offenses can also trigger withdrawal of TPS status. *See* 8 C.F.R. 244.14(a)(1).

Terminating Venezuela’s TPS designation would pose challenges to jurisdictions around the country in enforcing their criminal codes and protecting public safety. Amici’s interests in maintaining public order weigh heavily in favor of granting a postponement.

## CONCLUSION

For the foregoing reasons, the district court postponement should be affirmed.

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<sup>60</sup> *See, e.g.,* Ted Hesson & Mica Rosenberg, *Trump Says Migrants Are Fueling Violent Crime. Here Is What the Research Shows*, Reuters (July 16, 2024), <https://www.reuters.com/world/us/trump-focuses-migrants-crime-here-is-what-research-shows-2024-04-11/>; Maria Cramer et al., ‘Migrant Crime Wave’ Not Supported by Data, Despite High-Profile Cases, N.Y. Times (Feb. 15, 2024), <https://www.nytimes.com/2024/02/15/nyregion/migrants-crime-nyc.html>.

<sup>61</sup> *See* Verónica Egui Brito & Syra Ortiz Blanes, *In a Few Weeks, Hundreds of Thousands of Venezuelans Will Lose TPS. What You Need to Know*, Miami Herald (Feb. 13, 2025), <https://tinyurl.com/y8enj5ap>.

Dated: June 4, 2025

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