



## REFUGEE PROCESSING AND SETTLEMENT

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### REFUGEES

A “refugee” is someone outside his or her country who cannot return to it because of persecution or fear of persecution based on certain reasons.

The U.S. State Department leads the refugee admission process, which involves many federal agencies.

In recent years, between 375 and 547 refugees settled in Connecticut annually, although some subsequently leave the state while others move in from other states.

### ISSUE

How does the federal government process refugee applications? How do refugees come to Connecticut and does the state play a role in determining a refugee’s placement? How many refugees have settled in Connecticut in recent years? Can the state refuse to allow refugees to settle in Connecticut?

### SUMMARY

Federal law generally defines someone as a “refugee” if he or she is outside of his or her own country and cannot return to it because of persecution or a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion.

The federal government’s process to determine whether to admit someone to the United States as a refugee involves a number of agencies and takes 18 to 24 months from the date of referral or receiving an application through arrival in the United States. The U.S. State Department is the lead agency and it receives most of its refugee applications on referral from the United Nations High Commissioner for Refugees (UNHCR).

The process begins with caseworkers, mostly from nongovernmental organizations (NGOs), collecting basic information from applicants worldwide. U.S. Citizenship and Immigration Services officers then travel to conduct in-person interviews where applicants are located to determine whether they meet the federal definition of a “refugee.” The in-person interview is mandatory and cannot be waived. Applicants also undergo security and health



screenings. According to the State Department, applicants undergo the highest level of security check of any travelers to the U.S., involving the National Counterterrorism Center, FBI's Terrorist Screening Center, Department of Homeland Security, Department of Defense, and other agencies. The department states that many details of the screening process are classified.

Once refugees are approved to come to the United States, the federal government works with nine domestic resettlement agencies operating in about 180 U.S. communities to resettle them. The State Department develops placement plans but the agencies determine the placements. The law does not give the states a role in the placement process other than through required consultations between the federal government and resettlement agencies and states at various times. These consultations allow a state to comment on the intended placement of refugees and their impact on the state.

Based on U.S. State Department data, as of November 16, 2015, a total of 2,932 refugees have settled in Connecticut since 2010. The number of refugees settling in the state in a year ranged from a low of 375 in 2011 to a high of 547 in 2013. Through November 16, 2015, a total of 453 refugees have settled in Connecticut this year.

We are not aware of any federal or state law authorizing a state to refuse to allow the settlement of refugees. Federal constitutional and statutory provisions appear to preempt most state authority regarding immigration and refugee status. The U.S. Constitution gives Congress the power to establish a "uniform rule of naturalization" and Congress has enacted a statutory refugee admission process by adopting the Immigration and Nationality Act. The U.S. Supreme Court's rulings on federal immigration authority indicate that federal law preempts many state actions in this area and appear to leave little authority for states in immigration matters.

Other obligations can affect the state's ability to refuse refugees. For example, Connecticut receives federal funds to operate refugee assistance programs and by doing so undertakes certain obligations under federal law to refugees settling in the state. State law also makes it an illegal discriminatory practice to discriminate in accommodation, employment, and other ways based on a person's national origin or alienage, as well as other characteristics such as race ([CGS § 46a-58 et seq.](#)). Thus, state government action that treats refugees differently than others might violate Connecticut's anti-discrimination laws.

## **WHO IS A REFUGEE?**

Federal law defines a "refugee" as someone who is:

1. outside the country of his or her nationality or, if he or she has no nationality, outside the country where he or she last habitually resided and
2. unable or unwilling to return to that country and unable or unwilling to avail himself or herself of that country's protection because of persecution or a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion.

People who are persecuted or fear persecution, but are still within their country, may be given refugee status by the U.S. president after consultation with the chairs of the House and Senate Judiciary Committees.

Under federal law, someone cannot be a "refugee" if he or she ordered, incited, assisted, or participated in the persecution of anyone because of his or her race, religion, nationality, membership in a social group, or political opinion (8 USC § 1101(a)(42)).

## **U.S. REFUGEE ADMISSIONS PROGRAM (USRAP)**

Federal law requires the U.S. president, after consulting Congress, to set a limit on the number of refugees to admit in a year and the number to be admitted from different regions of the world (8 USC § 1157).

The refugee process begins when the U.S. State Department receives an application for refugee status or a referral from UNHCR, a U.S. embassy, or certain NGOs. According to the State Department, about 75% of refugee cases are UNHCR referrals and about 25% are direct applications. A case may involve a single person or include a spouse, children under age 21, and certain other family members.

Caseworkers, mostly from NGOs such as the International Rescue Committee or International Organization for Migration, collect basic information from applicants at Resettlement Support Centers around the world. They provide this information to U.S. Citizenship and Immigration Services officers who conduct in-person interviews with applicants where they are located to determine whether they meet the definition of a "refugee" under federal law.

Applicants undergo security checks involving the National Counterterrorism Center, FBI's Terrorist Screening Center, Department of Homeland Security, Department of Defense, and other agencies. The State Department describes this as the highest level of security check for travelers to the U.S. Applicants also undergo a health screening to identify diseases of public health significance. Applicants who meet the definition of a refugee may still be denied entry to the U.S. for a number of reasons, including health concerns, criminal activity, and security concerns (including terrorist activity or support)(8 USC §§ 1157 (c)(3) and 1182(a)).

Refugees approved to come to the United States usually attend a three-day cultural orientation about the U.S. and what to expect from resettlement agencies and others upon arrival. The federal government works with nine domestic resettlement agencies that operate in about 180 U.S. communities to resettle refugees. The State Department develops placement plans for refugees but resettlement agency representatives consider refugees' information at the department's refugee processing center to determine where to place them. Refugees with relatives in the U.S. are often settled with or near them.

The International Organization of Migration organizes a refugee's travel. The federal government pays for their air travel but refugees sign a promissory note before departure agreeing to repay the amount. Resettlement agency personnel meet refugees at the airport and help resettle them in a community. They provide services for 30 to 90 days including help finding safe and affordable housing and other services to promote self-sufficiency and cultural adjustment. The State Department's Reception and Placement Program provides resettlement agencies with a one-time sum per refugee which is typically used for a refugee's rent, furnishings, food, clothing, and the resettlement agency's expenses. Refugees may be eligible for assistance from the Department of Health and Human Services' (DHHS) Office of Refugee Resettlement (ORR) programs for up to five years.

Refugees enter the U.S. under a refugee status. They are authorized to work upon arrival. They must apply for lawful permanent resident status after a year (8 USC § 1159) and may apply for citizenship after five years.

### ***State Role***

Federal law requires ORR to consult at least quarterly with state and local governments and nonprofit agencies about the intended distribution and placement of refugees. (In practice, the state refugee coordinator and state refugee health coordinator, who are state agency employees designated to administer federal

refugee assistance funds, usually represent the state in these consultations.) The ORR director must develop and implement, in consultation with resettlement agency representatives and state and local governments, policies and strategies for the placement and resettlement of refugees within the United States. Generally, these policies and strategies must:

1. ensure that a refugee is not resettled in an area highly impacted by the presence of refugees or comparable populations unless the refugee has a spouse, parent, sibling, or child residing in the area;
2. provide a mechanism for resettlement agency representatives to meet at least quarterly with state and local government representatives to plan and coordinate for the appropriate placement of refugees among the states and localities; and
3. account for (a) the proportion of refugees and comparable entrants in the population in an area; (b) the availability of employment opportunities, affordable housing, and public and private resources (including educational, health care, and mental health services) for refugees in the area; (c) the likelihood that refugees can become self-sufficient and free from long-term dependence on public assistance; and (d) the secondary migration of refugees to and from the area that is likely to occur (8 USC § 1522).

Federal law also requires ORR to take into account a state's recommendations regarding placement of refugees within the state to the maximum extent possible, consistent with the policies and strategies described above (8 USC § 1522).

In addition, a resettlement agency seeking to work with the State Department must annually submit a detailed proposal about its operations, including its capacity to work with refugees in its different offices. According to the department, it sends this information to each state's refugee coordinator for comments on the resettlement agency's, community's, and state's capacity to accept refugees.

## **REFUGEES SETTLED IN CONNECTICUT**

We compiled information on refugees settling in Connecticut since 2010 using the Worldwide Refugee Admissions Processing System (WRAPS). The U.S. Department of State's Bureau of Population, Refugees, and Migration operates WRAPS through the Refugee Processing Center ([www.wrapsnet.org](http://www.wrapsnet.org)). Table 1 displays the number of refugees settling in Connecticut based on their nationality by year.

Table 1: Refugees Settled in Connecticut Since 2010, by Nationality

Nationality	2010	2011	2012	2013	2014	2015 (YTD)*	Total
Afghanistan	23	8	14	13	4	11	73
Algeria	2	0	0	0	0	0	2
Bhutan	94	69	60	26	3	1	253
Burma	144	117	53	67	59	40	480
Burundi	4	0	0	0	0	8	12
Cameroon	0	0	1	0	0	0	1
Central African Republic	0	0	7	0	0	1	8
Colombia	0	4	0	0	35	6	45
Congo	0	1	0	0	0	0	1
Cuba	19	2	27	8	3	0	59
Democratic Republic of Congo	14	35	45	106	64	107	371
Eritrea	12	40	80	41	40	27	240
Ethiopia	0	0	5	10	12	4	31
Iran	5	7	7	1	5	7	32
Iraq	146	61	128	159	160	59	713
Ivory Coast	0	0	1	1	2	0	4
Liberia	2	7	1	4	1	0	15
Morocco	0	0	1	0	0	0	1
Pakistan	0	0	4	0	0	0	4
Palestine	14	0	0	0	0	0	14
Russia	0	1	4	1	2	0	8
Rwanda	0	0	0	0	0	13	13
Senegal	0	0	0	1	0	0	1
Sierra Leone	1	0	0	0	0	0	1
Somalia	28	20	46	80	128	105	407
Sri Lanka	2	3	0	4	0	0	9
Sudan	4	0	24	25	15	22	90
Syria	0	0	0	0	0	42	42
Tunisia	0	0	1	0	0	0	1
United Kingdom	0	0	0	0	1	0	1
<b>Total</b>	<b>514</b>	<b>375</b>	<b>509</b>	<b>547</b>	<b>534</b>	<b>453</b>	<b>2,932</b>

Source: Worldwide Refugee Admissions Processing System

Note: \*Through November 16, 2015

Because refugees may move at any time after placement, the exact number of refugees settled in Connecticut is unclear. DHHS tracks migration of refugees within the United States. In FY 13, 14 refugees migrated into Connecticut after settling elsewhere and 187 migrated out of Connecticut. DHHS reported a total refugee population of 688 in Connecticut in FY 13 (*Statistical Abstract for Refugee Resettlement Stakeholders, July 2014*) (migration data required by 8 USC § 1522(a)(3)).

## **STATE AUTHORITY TO REFUSE REFUGEES**

We are not aware of any federal or state law authorizing the state to refuse to allow the settlement of refugees. But federal constitutional and statutory provisions preempt most state authority regarding immigration and refugee status and may prohibit a state from doing so.

The U.S. Constitution gives Congress the power to establish a “uniform rule of naturalization” (U.S. Const. Art. I, § 8). The U.S. Supreme Court has stated that the federal government “has broad, undoubted power over the subject of immigration and the status of aliens” and this power is based on the constitution and the “inherent power as sovereign to control and conduct relations with foreign nations” (see *Arizona v. U.S.*, 132 S.Ct. 2492 (2012)).

Because of this extensive federal authority, the Supreme Court has found that federal law preempts many state laws regarding immigration. Generally, federal law preempts a state law if (1) the federal statute explicitly does so, (2) the federal statutory framework is so pervasive that it leaves the states no room to supplement it, (3) the federal interest is so dominant that it precludes a state law on the same subject, or (4) a state law conflicts with federal law (*Arizona v. U.S.*, 132 S.Ct. 2492 (2012)).

The Supreme Court has recognized that “federal governance of immigration and alien status is extensive and complex” (see *Arizona v. U.S.*). Federal law establishes the refugee admission process under the Immigration and Nationality Act (codified at 8 USC §§ 1100 et seq.). The only state role we identified in this process involves consultations with the federal government and resettlement agencies, as described above. We did not find any case specifically addressing federal preemption and a state’s authority to refuse refugees but it appears that these federal constitutional and statutory provisions leave little room for state authority regarding accepting refugees.

Other obligations can affect the state’s ability to refuse refugees. For example, Connecticut receives federal funds to operate refugee assistance programs. By doing so, the state undertakes certain obligations to refugees settling in the state (8 USC § 1522). In general, federal law also prohibits denying benefits under any program or activity receiving federal financial assistance to anyone in the United States based on race, color, or national origin (42 USC § 2000d).

State law also makes it an illegal discriminatory practice to discriminate in accommodation, employment, and other ways based on a person's national origin or alienage, as well as other characteristics such as race ([CGS §§ 46a-58 et seq.](#)). Thus, state government action that treats refugees differently than others might violate Connecticut's anti-discrimination laws.

## **SOURCES AND ADDITIONAL INFORMATION**

Background Briefing on the Mechanics of the United States Refugee Admissions Program (September 11, 2015), last visited December 3, 2015, [www.state.gov/r/pa/prs/ps/2015/09/246843.htm](http://www.state.gov/r/pa/prs/ps/2015/09/246843.htm)

*ORR Annual Report to Congress FY 13*, last visited December 3, 2015, [https://www.acf.hhs.gov/sites/default/files/orr/arc\\_2013\\_508.pdf](https://www.acf.hhs.gov/sites/default/files/orr/arc_2013_508.pdf)

National Conference of State Legislators, *The U.S. Refugee Resettlement Program: A Primer for Policymakers*, last visited December 3, 2015,

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