

By: Senator(s) Fillingane, Burton,
Chassaniol, Dickerson, Hudson, King, Flowers,
Lee (35th)

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2179

1 AN ACT TO CREATE THE MISSISSIPPI SUPPORT OUR LAW ENFORCEMENT
2 AND SAFE NEIGHBORHOODS ACT OF 2011; TO SET FORTH LEGISLATIVE
3 INTENT AND SHORT TITLE; TO REQUIRE COOPERATION AND ASSISTANCE IN
4 ENFORCEMENT OF IMMIGRATION LAWS AND TO INDEMNIFY LAW ENFORCEMENT
5 OFFICERS FOR IMPLEMENTATION OF THIS ACT; TO CREATE THE OFFENSE OF
6 WILLFUL FAILURE TO COMPLETE OR CARRY AN ALIEN REGISTRATION
7 DOCUMENT AND PRESCRIBE PENALTIES THEREFOR; TO AMEND SECTION
8 97-3-54.1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A LAW
9 ENFORCEMENT OFFICER TO STOP ANY PERSON IN VIOLATION OF TRAFFIC
10 LAWS IN THE ENFORCEMENT OF THE MISSISSIPPI EMPLOYMENT PROTECTION
11 ACT; TO CREATE THE OFFENSE OF UNLAWFUL TRANSPORT, CONCEALMENT OR
12 HARBORING OF UNLAWFUL ALIENS; TO ENACT EXCEPTIONS; TO AMEND
13 SECTION 99-3-7, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
14 ARREST WITHOUT WARRANT OF A PERSON REASONABLY BELIEVED TO HAVE
15 COMMITTED ANY PUBLIC OFFENSE THAT MAKES THE PERSON REMOVABLE FROM
16 THE UNITED STATES; TO AMEND SECTION 71-11-3, MISSISSIPPI CODE OF
17 1972, TO PROVIDE FOR RETENTION OF E-VERIFY CONFIRMATIONS FOR AT
18 LEAST 3 YEARS, TO CLARIFY AND REVISE ENFORCEMENT AND PENALTIES
19 UNDER THE MISSISSIPPI EMPLOYMENT PROTECTION ACT AND TO PRESCRIBE A
20 COMPLAINTS PROCEDURE; TO REQUIRE THE IMMOBILIZATION OR IMPOUNDMENT
21 OF A VEHICLE OPERATED IN FURTHERANCE OF VIOLATIONS UNDER THIS ACT;
22 TO CREATE THE SPECIAL FUND TO BE KNOWN AS THE IMMIGRATION
23 REIMBURSEMENT PROGRAM FUND; TO AUTHORIZE ALL MISSISSIPPI LAW
24 ENFORCEMENT OFFICERS TO ASSIST FEDERAL AGENCIES IN ENFORCEMENT OF
25 IMMIGRATION LAW; TO REQUIRE THE BOARD OF PUBLIC CONTRACTORS TO
26 REVIEW CONTRACTOR COMPLIANCE WITH E-VERIFY REQUIREMENTS; TO
27 PROVIDE FOR SEVERABILITY, IMPLEMENTATION AND CONSTRUCTION; AND FOR
28 RELATED PURPOSES.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

30 **SECTION 1. Legislative intent and short title.** (1) The
31 Legislature finds that there is a compelling interest in the
32 cooperative enforcement of federal immigration laws throughout all
33 of Mississippi. The Legislature declares that the intent of this
34 act is to make attrition through enforcement the public policy of
35 all state agencies and local governments in Mississippi. The
36 provisions of this act are intended to work together to discourage
37 and deter the unlawful entry and presence of aliens and economic
38 activity by persons unlawfully present in the United States.



39 (2) Sections 1, 2, 3, 5, 6, 12, 13 and 14 of this act may be
40 cited as the "Support Our Law Enforcement and Safe Neighborhoods
41 Act."

42 **SECTION 2. Cooperation and assistance in enforcement of**
43 **immigration laws; indemnification.** (1) No official or agency of
44 this state or a political subdivision of this state shall limit or
45 restrict the enforcement of federal immigration laws to less than
46 the full extent permitted by federal law.

47 (2) For any lawful stop, detention or arrest made by a law
48 enforcement official or a law enforcement agency of this state or
49 a law enforcement official or a law enforcement agency of a
50 political subdivision of this state in the enforcement of any
51 other law or ordinance of a county, municipality or the state
52 where reasonable suspicion exists that the person is an alien and
53 is unlawfully present in the United States, a reasonable attempt
54 shall be made, when practicable, to determine the immigration
55 status of the person, except if the determination may hinder or
56 obstruct an investigation. The immigration status of any person
57 who is arrested shall be determined before the person is released
58 by verification with the federal government pursuant to 8 USC
59 Section 1373(c). A law enforcement official or agency of this
60 state or political subdivision of this state shall not consider
61 race, color or national origin in implementing the requirements of
62 this subsection except to the extent permitted by the United
63 States or Mississippi Constitution. A person is presumed to not
64 be an alien who is unlawfully present in the United States if the
65 person provides to the law enforcement officer or agency any of
66 the following:

67 (a) A valid Mississippi driver's license.

68 (b) A valid Mississippi identification card issued
69 under Title 45, Chapter 35, Mississippi Code of 1972.

70 (c) A valid tribal enrollment card or other form of
71 tribal identification.



72 (d) If the entity requires proof of legal presence in
73 the United States before issuance, any valid United States
74 federal, state or local government issued identification.

75 (3) If an alien who is unlawfully present in the United
76 States is convicted of a violation of state or local law, on
77 discharge from imprisonment or on the assessment of any monetary
78 obligation that is imposed, the United States Immigration and
79 Customs Enforcement or the United States Customs and Border
80 Protection shall be notified immediately.

81 (4) Notwithstanding any other law, a law enforcement agency
82 may securely transport to a federal facility in this state or to
83 any other point of transfer into federal custody that is outside
84 the jurisdiction of the law enforcement agency an alien for whom
85 the agency has received verification that the alien is unlawfully
86 present in the United States and is in the agency's custody. A
87 law enforcement agency shall obtain judicial authorization before
88 securely transporting an alien who is unlawfully present in the
89 United States to a point of transfer that is outside of this
90 state.

91 (5) In the implementation of this section, an alien's
92 immigration status may be determined by:

93 (a) A law enforcement officer who is authorized by the
94 federal government to verify or ascertain an alien's immigration
95 status.

96 (b) The United States Immigration and Customs
97 Enforcement or the United States Customs and Border Protection
98 pursuant to 8 USC Section 1373(c).

99 (6) Except as provided in federal law, officials or agencies
100 of this state and political subdivisions of this state may not be
101 prohibited or in any way be restricted from sending, receiving or
102 maintaining information relating to the immigration status, lawful
103 or unlawful, of any individual or exchanging that information with



104 any other federal, state or local governmental entity for the
105 following official purposes:

106 (a) Determining eligibility for any public benefit,
107 service or license provided by any federal, state, local or other
108 political subdivision of this state.

109 (b) Verifying any claim of residence or domicile if
110 determination of residence or domicile is required under the laws
111 of this state or a judicial order issued pursuant to a civil or
112 criminal proceeding in this state.

113 (c) If the person is an alien, determining whether the
114 person is in compliance with the federal registration laws
115 prescribed by Title II, Chapter 7 of the federal Immigration and
116 Nationality Act.

117 (d) Pursuant to 8 USC Section 1373 and 8 USC Section
118 1644.

119 (7) This section does not implement, authorize or establish
120 and shall not be construed to implement, authorize or establish
121 the REAL ID Act of 2005 (Public Law 109-13, Division B; 119 Stat.
122 302), including the use of a radio frequency identification chip.

123 (8) A person who is a legal resident of this state may bring
124 an action in circuit court to challenge any official or agency of
125 this state or a political subdivision of this state that adopts or
126 implements a policy that limits or restricts the enforcement of
127 federal immigration laws, including, but not limited to, 8 USC
128 Sections 1373 and 1644, to less than the full extent permitted by
129 federal law. If there is a judicial finding that an entity has
130 violated this section, the court shall order that the entity pay a
131 civil penalty of not less than Five Hundred Dollars (\$500.00) and
132 not more than Five Thousand Dollars (\$5,000.00) for each day that
133 the policy has remained in effect after the filing of an action
134 pursuant to this subsection.

135 (9) A court shall collect the civil penalty prescribed in
136 subsection (8) of this section and remit the civil penalty to the



137 State Treasurer for deposit in the Gang and Immigration
138 Intelligence Team Enforcement Mission Fund established by Section
139 13 of Senate Bill No. 2179, 2011 Regular Session.

140 (10) The court may award court costs and reasonable attorney
141 fees to any person or any official or agency of this state or a
142 political subdivision of this state that prevails by an
143 adjudication on the merits in a proceeding brought pursuant to
144 this section.

145 (11) Except in relation to matters in which the officer is
146 adjudged to have acted in bad faith, a law enforcement officer is
147 indemnified by the law enforcement officer's agency against
148 reasonable costs and expenses, including attorney fees, incurred
149 by the officer in connection with any action, suit or proceeding
150 brought pursuant to this section in which the officer may be a
151 defendant by reason of the officer being or having been a member
152 of the law enforcement agency.

153 (12) This section shall be implemented in a manner
154 consistent with federal laws regulating immigration, protecting
155 the civil rights of all persons, and respecting the privileges and
156 immunities of United States citizens.

157 **SECTION 3. Willful failure to complete or carry an alien**
158 **registration document; assessment; exception; authenticated**
159 **records; classification.** (1) In addition to any violation of

160 federal law, a person is guilty of willful failure to complete or
161 carry an alien registration document if the person is in violation
162 of 8 USC Section 1304(e) or 1306(a).

163 (2) In the enforcement of this section, an alien's
164 immigration status may be determined by:

165 (a) A law enforcement officer who is authorized by the
166 federal government to verify or ascertain an alien's immigration
167 status.



168 (b) The United States Immigration and Customs
169 Enforcement or the United States Customs and Border Protection
170 pursuant to 8 USC Section 1373(c).

171 (3) A law enforcement official or agency of this state or a
172 county, city, town or other political subdivision of this state
173 shall not consider race, color or national origin in the
174 enforcement of this section except to the extent permitted by the
175 United States or Mississippi Constitution.

176 (4) A person who is sentenced pursuant to this section is
177 not eligible for suspension of sentence, probation, pardon,
178 commutation of sentence, or release from confinement on any basis
179 except as authorized by Section 47-7-4 until the sentence imposed
180 by the court has been served or the person is eligible for release
181 pursuant to Section 47-7-47.

182 (5) In addition to any other penalty prescribed by law, the
183 court shall order the person to pay jail costs.

184 (6) This section does not apply to a person who maintains
185 authorization from the federal government to remain in the United
186 States.

187 (7) Any record that relates to the immigration status of a
188 person is admissible in any court without further foundation or
189 testimony from a custodian of records if the record is certified
190 as authentic by the government agency that is responsible for
191 maintaining the record.

192 (8) A violation of this section is a misdemeanor, punishable
193 by a fine not to exceed One Hundred Dollars (\$100.00) and thirty
194 (30) days in jail; for a first violation, the court shall not
195 sentence the offender to more than twenty (20) days in jail.

196 **SECTION 4.** Section 97-3-54.1, Mississippi Code of 1972, is
197 amended as follows:

198 97-3-54.1. (1) (a) A person who recruits, entices,
199 harbors, transports, provides or obtains by any means, or attempts
200 to recruit, entice, harbor, transport, provide or obtain by any



201 means, another person, intending or knowing that the person will
202 be subjected to forced labor or services, shall be guilty of the
203 crime of human-trafficking.

204 (b) A person who knowingly subjects, or attempts to
205 subject, another person to forced labor or services shall be
206 guilty of the crime of procuring involuntary servitude.

207 (c) A person who knowingly subjects, or attempts to
208 subject, or who recruits, entices, harbors, transports, provides
209 or obtains by any means, or attempts to recruit, entice, harbor,
210 transport, provide or obtain by any means, a minor, knowing that
211 the minor will engage in commercial sexual activity, sexually
212 explicit performance, or the production of sexually oriented
213 material, or causes or attempts to cause a minor to engage in
214 commercial sexual activity, sexually explicit performance, or the
215 production of sexually oriented material, shall be guilty of
216 procuring sexual servitude of a minor and shall be punished by
217 commitment to the custody of the Department of Corrections for not
218 more than thirty (30) years.

219 (2) A person who is convicted of an offense set forth in
220 subsection (1)(a) or (b) of this section, or who benefits, whether
221 financially or by receiving anything of value, from participation
222 in a venture that has engaged in an act described in this section,
223 shall be committed to the custody of the Department of Corrections
224 for not more than twenty (20) years.

225 (3) Notwithstanding any other law, in the enforcement of
226 this section, a law enforcement officer may lawfully stop any
227 person who is operating a motor vehicle if the officer has
228 reasonable suspicion to believe that the person is in violation of
229 any civil traffic law.

230 **SECTION 5. Unlawful transporting, moving, concealing,**
231 **harboring or shielding of unlawful aliens; vehicle impoundment;**
232 **exception; classification.** (1) It is unlawful for a person to:



233 (a) Transport or move or attempt to transport or move
234 an alien in this state, in furtherance of the illegal presence of
235 the alien in the United States, in a means of transportation if
236 the person knows that the alien has come to, has entered or
237 remains in the United States in violation of law.

238 (b) Conceal, harbor or shield or attempt to conceal,
239 harbor or shield an alien from detection in any place in this
240 state, including any building or any means of transportation, if
241 the person knows that the alien has come to, has entered or
242 remains in the United States in violation of law.

243 (c) Encourage or induce an alien to come to or reside
244 in this state if the person knows that such coming to, entering or
245 residing in this state is or will be in violation of law.

246 (2) A means of transportation that is used in the commission
247 of a violation of this section is subject to mandatory vehicle
248 immobilization or impoundment pursuant to Section 11 of Senate
249 Bill No. 2179, 2011 Regular Session.

250 (3) A law enforcement official or agency of this state, a
251 county or a municipality shall not consider race, color or
252 national origin in the enforcement of this section except to the
253 extent permitted by the United States or Mississippi Constitution.

254 (4) In the enforcement of this section, an alien's
255 immigration status may be determined by:

256 (a) A law enforcement officer who is authorized by the
257 federal government to verify or ascertain an alien's immigration
258 status; or

259 (b) The United States Immigration and Customs
260 Enforcement or the United States Customs and Border Protection
261 pursuant to 8 USC Section 1373(c).

262 (5) (a) Nothing in this section shall be construed so as to
263 prohibit or restrict the provision of any state or local public
264 benefit described in 8 USC, Section 1621(b), or regulated public
265 health services provided by a private charity using private funds.



266 (b) The following activities shall not constitute
267 unlawful harboring of illegal aliens under this section:
268 providing medical, legal or other professional services to illegal
269 aliens; or providing health care, food, shelter or other material
270 goods to illegal aliens. These activities shall not constitute
271 unlawful transporting of illegal aliens under this section.

272 (6) A person who violates this section is guilty of a
273 misdemeanor and is subject to a fine in an amount of not less than
274 One Thousand Dollars (\$1,000.00), except in a court having a lower
275 maximum jurisdiction, and except that a violation of this section
276 that involves ten (10) or more illegal aliens is a felony
277 punishable by imprisonment in the custody of the Department of
278 Corrections for not less than one (1) nor more than two (2) years,
279 and the person is subject to a fine of not less than One Thousand
280 Dollars (\$1,000.00) for each alien who is involved.

281 **SECTION 6.** Section 99-3-7, Mississippi Code of 1972, is
282 amended as follows:

283 99-3-7. (1) An officer or private person may arrest any
284 person without warrant, for an indictable offense committed, or a
285 breach of the peace threatened or attempted in his presence; or
286 when a person has committed a felony, though not in his presence;
287 or when a felony has been committed, and he has reasonable ground
288 to suspect and believe the person proposed to be arrested to have
289 committed it; or on a charge, made upon reasonable cause, of the
290 commission of a felony by the party proposed to be arrested. And
291 in all cases of arrests without warrant, the person making such
292 arrest must inform the accused of the object and cause of the
293 arrest, except when he is in the actual commission of the offense,
294 or is arrested on pursuit.

295 (2) Any law enforcement officer may arrest any person on a
296 misdemeanor charge without having a warrant in his possession when
297 a warrant is in fact outstanding for that person's arrest and the
298 officer has knowledge through official channels that the warrant



299 is outstanding for that person's arrest. In all such cases, the
300 officer making the arrest must inform such person at the time of
301 the arrest the object and cause therefor. If the person arrested
302 so requests, the warrant shall be shown to him as soon as
303 practicable.

304 (3) (a) Any law enforcement officer shall arrest a person
305 with or without a warrant when he has probable cause to believe
306 that the person has, within twenty-four (24) hours of such arrest,
307 knowingly committed a misdemeanor which is an act of domestic
308 violence or knowingly violated provisions of an ex parte
309 protective order, protective order after hearing or court-approved
310 consent agreement entered by a chancery, circuit, county, justice
311 or municipal court pursuant to the Protection from Domestic Abuse
312 Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972,
313 or a restraining order entered by a foreign court of competent
314 jurisdiction to protect an applicant from domestic violence as
315 defined by Section 97-3-7 that requires the person to refrain from
316 further abuse or threats of abuse, to absent himself from a
317 particular geographic area, or prohibit such person from being
318 within a specified distance of another person or persons.

319 (b) If a law enforcement officer has probable cause to
320 believe that two (2) or more persons committed a misdemeanor which
321 is an act of domestic violence as defined herein, or if two (2) or
322 more persons make complaints to the officer, the officer shall
323 attempt to determine who was the principal aggressor. The term
324 principal aggressor is defined as the party who poses the most
325 serious ongoing threat, or who is the most significant, rather
326 than the first, aggressor. The officer shall presume that arrest
327 is not the appropriate response for the person or persons who were
328 not the principal aggressor. If the officer affirmatively finds
329 more than one (1) principal aggressor was involved, the officer
330 shall document those findings.



331 (c) To determine who is the principal aggressor, the
332 officer shall consider the following factors, although such
333 consideration is not limited to these factors:

334 (i) Evidence from the persons involved in the
335 domestic abuse;

336 (ii) The history of domestic abuse between the
337 parties, the likelihood of future injury to each person, and the
338 intent of the law to protect victims of domestic violence from
339 continuing abuse;

340 (iii) Whether one (1) of the persons acted in
341 self-defense; and

342 (iv) Evidence from witnesses of the domestic
343 violence.

344 (d) A law enforcement officer shall not base the
345 decision of whether to arrest on the consent or request of the
346 victim.

347 (e) A law enforcement officer's determination regarding
348 the existence of probable cause or the lack of probable cause
349 shall not adversely affect the right of any party to independently
350 seek appropriate remedies.

351 (4) (a) Any person authorized by a court of law to
352 supervise or monitor a convicted offender who is under an
353 intensive supervision program may arrest the offender when the
354 offender is in violation of the terms or conditions of the
355 intensive supervision program, without having a warrant, provided
356 that the person making the arrest has been trained at the Law
357 Enforcement Officers Training Academy established under Section
358 45-5-1 et seq., or at a course approved by the Board on Law
359 Enforcement Officer Standards and Training.

360 (b) For the purposes of this subsection, the term
361 "intensive supervision program" means an intensive supervision
362 program of the Department of Corrections as described in Section
363 47-5-1001 et seq., or any similar program authorized by a court



364 for offenders who are not under jurisdiction of the Department of
365 Corrections.

366 (5) A law enforcement officer, without a warrant, may arrest
367 a person if the officer has probable cause to believe that the
368 person to be arrested has committed any public offense that makes
369 the person removable from the United States.

370 (6) As used in subsection (3) of this section, the phrase
371 "misdemeanor which is an act of domestic violence" shall mean one
372 or more of the following acts between current or former spouses or
373 a child of current or former spouses, persons living as spouses or
374 who formerly lived as spouses or a child of persons living as
375 spouses or who formerly lived as spouses, other persons related by
376 consanguinity or affinity who reside or formerly resided together,
377 persons who have a current or former dating relationship, or
378 persons who have a biological or legally adopted child together:

379 (a) Simple domestic violence within the meaning of
380 Section 97-3-7;

381 (b) Disturbing the family or public peace within the
382 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

383 (c) Stalking within the meaning of Section 97-3-107.

384 (7) Any arrest made pursuant to subsection (3) of this
385 section shall be designated as domestic assault or domestic
386 violence on both the arrest docket and the incident report. Any
387 officer investigating a complaint of a misdemeanor crime of
388 domestic violence who finds probable cause that such an offense
389 has occurred within the past twenty-four (24) hours shall file an
390 affidavit on behalf of the victim(s) of the crime, regardless of
391 whether an arrest is made within that time period. If the crime
392 is reported or investigated outside of that twenty-four-hour
393 period, the officer may file the affidavit on behalf of the
394 victim. In the event the officer does not file an affidavit on
395 behalf of the victim, the officer shall instruct the victim of the
396 procedure for filing on his or her own behalf.



397 (8) A law enforcement officer shall not be held liable in
398 any civil action for an arrest based on probable cause and in good
399 faith pursuant to subsection (3) of this section, or failure, in
400 good faith, to make an arrest pursuant to subsection (3) of this
401 section.

402 **SECTION 7.** Section 71-11-3, Mississippi Code of 1972, is
403 amended as follows:

404 71-11-3. (1) This chapter shall be known as the
405 "Mississippi Employment Protection Act."

406 (2) The provisions of this section shall be enforced without
407 regard to race, gender, religion, ethnicity or national origin.

408 (3) For the purpose of this section only, the following
409 words shall have the meanings ascribed herein unless the content
410 clearly states otherwise:

411 (a) "Employer" is any person or business that is
412 required by federal or state law to issue a United States Internal
413 Revenue Service Form W-2 or Form 1099 to report income paid to
414 employed or contracted personnel in Mississippi.

415 (b) "Employee" is any person or entity that is hired to
416 perform work within the State of Mississippi and to whom a United
417 States Internal Revenue Service Form W-2 or Form 1099 must be
418 issued.

419 (c) "Third-party employer" is any person or company
420 that provides workers for another person or company. This
421 includes, but is not limited to, leasing companies and contract
422 employers.

423 (d) "Status verification system" means the electronic
424 verification of work authorization program of the Illegal
425 Immigration Reform and Immigration Responsibility Act of 1996,
426 Public Law 104-208, Division C, Section 403(a); 8 USC, Section
427 1324a, and operated by the United States Department of Homeland
428 Security, known as the E-Verify Program.



429 (e) "Unauthorized alien" means an alien as defined in
430 Section 1324a(h) (3) of Title 8 of the United States Code.

431 (f) "Legal alien" means an individual who was lawfully
432 present in the United States at the time of employment and for the
433 duration of employment, or who was permanently residing in the
434 United States under color of law at the time of employment and for
435 the duration of employment.

436 (g) "Public employer" means every department, agency or
437 instrumentality of the state or a political subdivision of the
438 state.

439 (h) "Subcontractor" means a subcontractor, contract
440 employee, staffing agency or any contractor regardless of its
441 tier.

442 (i) "Solicit" means communication, whether verbally or
443 nonverbally by a gesture or a nod, that would indicate to a
444 reasonable person that a person is willing to be employed.

445 (4) (a) Employers in the State of Mississippi shall only
446 hire employees who are legal citizens of the United States of
447 America or are legal aliens. * * * An employer that knowingly or
448 intentionally uses a third-party employer to obtain the labor of
449 an unauthorized alien in this state violates this subsection.

450 (b) (i) The Attorney General shall prescribe a
451 complaint form for a person to allege a violation of subsection
452 (4) (a) of this section. The complainant shall not be required to
453 list the complainant's social security number on the complaint
454 form or to have the complaint form notarized. On receipt of a
455 complaint on a prescribed complaint form that an employer
456 allegedly knowingly or intentionally employs an unauthorized
457 alien, the Attorney General or district attorney shall investigate
458 whether the employer has violated subsection (4) (a) of this
459 section. If a complaint is received but is not submitted on a
460 prescribed complaint form, the Attorney General or district
461 attorney may investigate whether the employer has violated



462 subsection (4) (a) of this section. This subsection shall not be
463 construed to prohibit the filing of anonymous complaints that are
464 not submitted on a prescribed complaint form. The Attorney
465 General or district attorney shall not investigate complaints that
466 are based solely on race, color or national origin. A complaint
467 that is submitted to a district attorney shall be submitted to the
468 district attorney in the county in which the alleged unauthorized
469 alien is or was employed by the employer. The county sheriff or
470 any other local law enforcement agency may assist in investigating
471 a complaint. When investigating a complaint, the Attorney General
472 or district attorney shall verify the work authorization of the
473 alleged unauthorized alien with the federal government pursuant to
474 8 USC Section 1373(c). A state, county or local official shall
475 not attempt to independently make a final determination on whether
476 an alien is authorized to work in the United States. An alien's
477 immigration status or work authorization status shall be verified
478 with the federal government pursuant to 8 USC Section 1373(c).

479 (ii) A person who knowingly files a false or
480 frivolous complaint under this subsection is guilty of a
481 misdemeanor.

482 (c) If, after an investigation, the Attorney General or
483 district attorney determines that the complaint is not false or
484 frivolous:

485 (i) The Attorney General or district attorney
486 shall notify United States Immigration and Customs Enforcement of
487 the unauthorized alien.

488 (ii) The Attorney General or district attorney
489 shall notify the local law enforcement agency of the unauthorized
490 alien.

491 (iii) The Attorney General shall notify the
492 appropriate district attorney to bring an action pursuant to
493 paragraph (d) of this subsection if the complaint was originally
494 filed with the Attorney General.



495 (d) An action for a violation of subsection (4)(a) of
496 this section shall be brought against the employer by the district
497 attorney in the county where the unauthorized alien employee is or
498 was employed by the employer. A second violation of this section
499 shall be based only on an unauthorized alien who is or was
500 employed by the employer after an action has been brought for a
501 first violation of subsection (4)(a) of this section.

502 (e) For any action under this subsection, the court
503 shall expedite the action, including assigning the hearing at the
504 earliest practicable date.

505 (f) On a finding of a violation of subsection (4)(a) of
506 this section:

507 (i) For a first violation as defined in this
508 section, the court:

509 1. Shall order the employer to terminate the
510 employment of all unauthorized aliens.

511 2. Shall order the employer to be subject to
512 a three-year probationary period for the business location where
513 the unauthorized alien performed work. During the probationary
514 period, the employer shall report quarterly reports to the
515 district attorney for each new employee who is hired by the
516 employer at the business location where the unauthorized alien
517 performed work the following: the name, address and social
518 security number of each employee hired and the name, address and
519 federal tax identification number for the employer. The district
520 attorney shall redact all identifying information from the public
521 record except for the employer's name and address.

522 3. Shall order the appropriate agencies to
523 suspend all licenses described in subsection (7) of this section
524 that are held by the employer for a period not less than ten (10)
525 business days, subject to item 4 of this subparagraph (i). The
526 court shall base its decision to suspend under this item 3 on any
527 evidence or information submitted to it during the action for a



528 violation of this subsection and may consider the following
529 factors, if relevant: the number of unauthorized aliens employed
530 by the employer; any prior misconduct by the employer; the degree
531 of harm resulting from the violation; whether the employer made
532 good-faith efforts to comply with any applicable requirements; the
533 duration of the violation; the role of the directors, officers or
534 principals of the employer in the violation; and any other factors
535 the court deems appropriate.

536 4. May order the minimum ten-day suspension
537 under item 3 to occur at the completion of construction if the
538 suspension would interrupt progress on a state, local government
539 or federal construction project.

540 5. Shall send a copy of the court's order to
541 the Attorney General.

542 (ii) For a second violation as described in this
543 section, the court shall order the appropriate agencies to
544 permanently revoke all licenses that are held by the employer.

545 (g) The Attorney General shall maintain copies of court
546 orders that are received pursuant to paragraph (f) of this
547 subsection and shall maintain a database of the employers and
548 business locations that have a first violation of subsection
549 (4) (a) of this section and make the court orders available on the
550 Attorney General's website.

551 (h) On determining whether an employee is an
552 unauthorized alien, the court shall consider only the federal
553 government's determination pursuant to 8 USC Section 1373(c). The
554 federal government's determination creates a rebuttable
555 presumption of the employee's lawful status. The court may take
556 judicial notice of the federal government's determination and may
557 request the federal government to provide automated or testimonial
558 verification pursuant to 8 USC Section 1373(c).

559 (i) For the purposes of this section, proof of
560 verifying the employment authorization of an employee through the



561 status verification program creates a rebuttable presumption that
562 an employer did not knowingly employ an unauthorized alien.

563 (j) (i) Every employer shall register with and utilize
564 the status verification system to verify the federal employment
565 authorization status of all newly hired employees and shall keep a
566 record of the verification for the duration of the employee's
567 employment or at least three (3) years, whichever is longer.

568 (ii) No contractor or subcontractor shall hire any
569 employee unless the contractor or subcontractor registers and
570 participates in the status verification system to verify the work
571 eligibility status of all newly hired employees.

572 (iii) No contractor or subcontractor who enters
573 into a contract with a public employer shall enter into such a
574 contract or subcontract unless the contractor or subcontractor
575 registers and participates in the status verification system to
576 verify information of all newly hired employees.

577 (k) The provisions of this section shall not apply to
578 any contracts entered into on or before July 1, 2008.

579 (l) (i) It shall be a discriminatory practice for an
580 employer to discharge an employee working in Mississippi who is a
581 United States citizen or permanent resident alien while retaining
582 an employee who the employing entity knows, or reasonably should
583 have known, is an unauthorized alien hired after July 1, 2008, and
584 who is working in Mississippi in a job category that requires
585 equal skill, effort and responsibility, and which is performed
586 under similar working conditions, as defined by 29 USC, Section
587 206(d) (1), as the job category held by the discharged employee.

588 (ii) An employing entity which, on the date of the
589 discharge in question, was enrolled in and used the status
590 verification system to verify the employment eligibility of its
591 employees in Mississippi hired after July 1, 2008, shall be exempt
592 from liability, investigation or suit arising from any action
593 under this section.



594 (iii) No cause of action for a violation of this
595 section shall lie under any other Mississippi law but shall arise
596 solely from the provisions of this section.

597 (5) Any employer that complies with the requirements of this
598 section shall be held harmless by the Mississippi Department of
599 Employment Security, provided the employer is not directly
600 involved in the creation of any false documents, and provided that
601 the employer did not knowingly and willfully accept false
602 documents from the employee.

603 (6) (a) All third-party employers that conduct business in
604 Mississippi shall register to do business in Mississippi with the
605 Mississippi Department of Employment Security before placing
606 employees into the workforce in Mississippi.

607 (b) Third-party employers shall provide proof of
608 registration and any participation in the status verification
609 system to any Mississippi employer with whom they do business.

610 (7) (a) State of Mississippi agencies and political
611 subdivisions, public contractors and public subcontractors and
612 private employers with two hundred fifty (250) or more employees
613 shall meet verification requirements not later than July 1, 2008.

614 (b) Employers with at least one hundred (100) but less
615 than two hundred fifty (250) employees shall meet verification
616 requirements not later than July 1, 2009.

617 (c) Employers with at least thirty (30) but less than
618 one hundred (100) employees shall meet verification requirements
619 not later than July 1, 2010.

620 (d) All employers shall meet verification requirements
621 not later than July 1, 2011.

622 (e) (i) Any employer violating the provisions of this
623 section shall be subject to the cancellation of any state or
624 public contract, resulting in ineligibility for any state or
625 public contract for up to three (3) years, the loss of any
626 license, permit, certificate or other document granted to the



627 employer by any agency, department or government entity in the
628 State of Mississippi for the right to do business in Mississippi
629 for up to one (1) year, or both.

630 (ii) The contractor or employer shall be liable
631 for any additional costs incurred by the agencies and institutions
632 of the State of Mississippi, or any of its political subdivisions,
633 because of the cancellation of the contract or the loss of any
634 license or permit to do business in the state.

635 (iii) Any person or entity penalized under this
636 paragraph shall have the right to appeal to the appropriate entity
637 imposing sanctions or to the circuit court of competent
638 jurisdiction.

639 (d) The Department of Employment Security, Department
640 of Revenue, Secretary of State, Department of Human Services,
641 Board of Public Contractors, the Attorney General and any other
642 agency, department or government entity shall have the authority
643 to impose sanctions or seek penalties authorized under this
644 section * * *.

645 (8) (a) There shall be no liability under this section in
646 the following circumstances:

647 (i) An employer who hires an employee through a
648 state or federal work program that requires verification of the
649 employee's social security number and provides for verification of
650 the employee's lawful presence in the United States in an
651 employment-authorized immigration status;

652 (ii) Any candidate for employment referred by the
653 Mississippi Department of Employment Security, if the Mississippi
654 Department of Employment Security has verified the social security
655 number and provides for verification of the candidate's lawful
656 presence in the United States in an employment-authorized
657 immigration status; or



658 (iii) Individual homeowners who hire workers on
659 their private property for noncommercial purposes, unless required
660 by federal law to do so.

661 (b) (i) Compliance with the sections of this statute
662 shall not exempt the employer from regulations and requirements
663 related to any federal laws or procedures related to employers.

664 (ii) This section shall not be construed as an
665 attempt to preempt federal law.

666 (c) (i) It shall be a felony for any person to accept
667 or perform employment for compensation knowing or in reckless
668 disregard that the person is an unauthorized alien with respect to
669 employment during the period in which the unauthorized employment
670 occurred. Upon conviction, a violator shall be subject to
671 imprisonment in the custody of the Department of Corrections for
672 not less than one (1) year nor more than five (5) years, a fine of
673 not less than One Thousand Dollars (\$1,000.00) nor more than Ten
674 Thousand Dollars (\$10,000.00), or both.

675 (ii) For purposes of determining bail for persons
676 who are charged under this section, it shall be a rebuttable
677 presumption that a defendant who has entered and remains in the
678 United States unlawfully is deemed at risk of flight for purposes
679 of bail determination.

680 (d) It is a misdemeanor for a person who is unlawfully
681 present in the United States and who is an unauthorized alien to
682 knowingly apply for work or solicit work in a public place in this
683 state.

684 **SECTION 8.** A law enforcement officer shall cause the removal
685 and either immobilization or impoundment of a vehicle if the law
686 enforcement officer determines that a person is driving the
687 vehicle in furtherance of the illegal presence of an alien in the
688 United States and in violation of a criminal offense, the person
689 is transporting or moving or attempting to transport or move an
690 alien in this state in a vehicle if the person knows or recklessly



691 disregards the fact that the alien has come to, has entered or
692 remains in the United States in violation of law, or the person is
693 concealing, harboring or shielding or attempting to conceal,
694 harbor or shield from detection an alien in this state in a
695 vehicle if the person knows or recklessly disregards the fact that
696 the alien has come to, entered or remains in the United States in
697 violation of law.

698 **SECTION 9.** (1) The Department of Public Safety shall
699 implement an Immigration Reimbursement Program that will provide
700 reimbursement to county jails and municipal jails, to the extent
701 funds may be available therefor, of costs relating to
702 incarceration of certain illegal aliens, not to exceed Twenty
703 Dollars (\$20.00) per eligible inmate per day.

704 (2) There is created in the State Treasury a special fund to
705 be known as the Immigration Reimbursement Fund. The purpose of
706 the fund shall be to provide reimbursement to local governments of
707 costs relating to the incarceration of illegal aliens for the
708 offense or alleged offense of willful failure to carry
709 documentation as set forth in Section 3 of Senate Bill No. 2179,
710 2011 Regular Session, for the Immigration Reimbursement Program.
711 Monies from the fund shall be distributed by the State Treasurer
712 upon warrants issued by the Department of Public Safety. The fund
713 shall be a continuing fund, not subject to fiscal-year
714 limitations, and shall consist of:

715 (a) Monies appropriated by the Legislature;
716 (b) The interest accruing to the fund;
717 (c) Monies received under the provisions of Section 9
718 of Senate Bill No. 2179, 2011 Regular Session;
719 (d) Monies received from the federal government;
720 (e) Donations; and
721 (f) Monies received from such other sources as may be
722 provided by law.



723 **SECTION 10.** All law enforcement officers of this state are
724 authorized to assist federal agencies in the enforcement of
725 federal immigration law.

726 **SECTION 11.** The State Board of Contractors shall have the
727 duty to review contractor compliance with the status verification
728 system requirements for employers and public employers set forth
729 in Section 71-11-3(6) (k) of the Mississippi Employment Protection
730 Act in the course of the board's performance of its regular
731 inspection responsibilities under Title 31 of the Mississippi Code
732 of 1972. This information may be obtained by investigation, by
733 hearings, or by any other reasonable and lawful means. The board
734 shall keep information concerning contractor compliance
735 appropriately filed and shall disseminate to any interested person
736 information as to contractor compliance; the information
737 disseminated shall not identify individual employees or give
738 identifying information about individual employees. The board
739 shall have the power of subpoena in enforcing this section. If an
740 inspector finds a violation of the Mississippi Employment
741 Protection Act set forth in Section 71-11-3(6) (k), the board shall
742 file a complaint with the Attorney General under Section
743 71-11-3(4).

744 **SECTION 12.** (1) If a provision of this act or its
745 application to any person or circumstance is held invalid, the
746 invalidity does not affect other provisions or applications of the
747 act that can be given effect without the invalid provision or
748 application, and to this end the provisions of this act are
749 severable.

750 (2) The terms of this act regarding immigration shall be
751 construed to have the meanings given to them under federal
752 immigration law.

753 (3) This act shall be implemented in a manner consistent
754 with federal laws regulating immigration, protecting the civil



755 rights of all persons and respecting the privileges and immunities
756 of United States citizens.

757 (4) Nothing in this act shall implement or shall be
758 construed or interpreted to implement or establish the REAL ID Act
759 of 2005 (Public Law 109-13, Division B; 119 Stat. 302) including
760 the use of a radio frequency identification chip.

761 **SECTION 13.** This act shall take effect and be in force from
762 and after July 1, 2011.

