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To: Judiciary B; Education

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 488

1 AN ACT TO CREATE THE MISSISSIPPI SUPPORT OUR LAW ENFORCEMENT
2 AND SAFE NEIGHBORHOODS ACT OF 2012; 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 REQUIRE PUBLIC SCHOOLS
6 TO DETERMINE THE STATUS OF ENROLLING STUDENTS; TO PROHIBIT ILLEGAL
7 ALIENS FROM ENTERING INTO BUSINESS TRANSACTIONS WITH THE STATE OR
8 A POLITICAL SUBDIVISION; TO AMEND SECTION 99-3-7, MISSISSIPPI CODE
9 OF 1972, TO CONFORM THE ARREST WITHOUT WARRANT STATUTE; TO AMEND
10 SECTION 71-11-3, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
11 RETENTION OF E-VERIFY CONFIRMATIONS FOR AT LEAST 3 YEARS; TO
12 CREATE THE SPECIAL FUND TO BE KNOWN AS THE IMMIGRATION
13 REIMBURSEMENT FUND; TO AUTHORIZE ALL MISSISSIPPI LAW ENFORCEMENT
14 OFFICERS TO ASSIST FEDERAL AGENCIES IN ENFORCEMENT OF IMMIGRATION
15 LAW; TO REQUIRE THE BOARD OF PUBLIC CONTRACTORS TO REVIEW
16 CONTRACTOR COMPLIANCE WITH E-VERIFY REQUIREMENTS; TO PROVIDE FOR
17 SEVERABILITY, IMPLEMENTATION AND CONSTRUCTION; AND FOR RELATED
18 PURPOSES.

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

20 **SECTION 1. Legislative intent and short title.** (1) The
21 Legislature finds that there is a compelling interest in the
22 cooperative enforcement of federal immigration laws throughout all
23 of Mississippi. The Legislature declares that the intent of this
24 act is to make attrition through enforcement the public policy of
25 all state agencies and local governments in Mississippi. The
26 provisions of this act are intended to work together to discourage
27 and deter the unlawful entry and presence of aliens and economic
28 activity by persons unlawfully present in the United States.

29 (2) This act may be cited as the "Support Our Law
30 Enforcement and Safe Neighborhoods Act."

31 **SECTION 2. Cooperation and assistance in enforcement of**
32 **immigration laws.** (1) No official or agency of this state or a
33 political subdivision of this state shall limit or restrict the
34 enforcement of federal immigration laws.



35 (2) For any lawful stop, detention or arrest made by a law
36 enforcement official or a law enforcement agency of this state or
37 a law enforcement official or a law enforcement agency of a
38 political subdivision of this state in the enforcement of any
39 other law or ordinance of a county, municipality or the state
40 where reasonable suspicion exists that the person is an alien and
41 is unlawfully present in the United States, a reasonable attempt
42 shall be made, when technologically feasible and practicable, to
43 determine the immigration status of the person, except if the
44 determination may hinder or obstruct an investigation. The
45 immigration status of any person who is arrested shall be
46 determined, where technologically feasible and practicable, before
47 the person is released by verification with the federal government
48 pursuant to 8 USCS Section 1373(c). A law enforcement official or
49 agency of this state or political subdivision of this state shall
50 not consider race, color or national origin in implementing the
51 requirements of this subsection except to the extent permitted by
52 the United States or Mississippi Constitution. A person is
53 presumed to not be an alien who is unlawfully present in the
54 United States if the person provides to the law enforcement
55 officer or agency any of the following:

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

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

59 (c) A valid tribal enrollment card or other form of
60 tribal identification.

61 (d) If the entity requires proof of legal presence in
62 the United States before issuance, any valid United States
63 federal, state or local government issued identification or
64 driver's license.

65 (e) Proof that the person is an international business
66 executive of an international corporation authorized to transact
67 business in the state.



68 (3) If an alien who is unlawfully present in the United
69 States is convicted of a violation of state or local law, on
70 discharge from imprisonment or on the assessment of any monetary
71 obligation that is imposed, the United States Immigration and
72 Customs Enforcement or the United States Customs and Border
73 Protection shall be notified immediately.

74 (4) Notwithstanding any other law, a law enforcement agency
75 may securely transport to a federal facility in this state or to
76 any other point of transfer into federal custody that is outside
77 the jurisdiction of the law enforcement agency an alien for whom
78 the agency has received verification that the alien is unlawfully
79 present in the United States and is in the agency's custody.

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

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

85 (b) The United States Immigration and Customs
86 Enforcement or the United States Customs and Border Protection
87 pursuant to 8 USCS Section 1373(c).

88 (6) Except as provided in federal law, officials or agencies
89 of this state and political subdivisions of this state may not be
90 prohibited or in any way be restricted from sending, receiving or
91 maintaining information relating to the immigration status, lawful
92 or unlawful, of any individual or exchanging that information with
93 any other federal, state or local governmental entity for the
94 following official purposes:

95 (a) Determining eligibility for any public benefit,
96 public assistance, service or license provided by any federal,
97 state, local or other political subdivision of this state.

98 (b) Verifying any claim of residence or domicile if
99 determination of residence or domicile is required under the laws



100 of this state or a judicial order issued pursuant to a civil or
101 criminal proceeding in this state.

102 (c) If the person is an alien, determining whether the
103 person is in compliance with the federal registration laws
104 prescribed by Title II, Chapter 7 of the federal Immigration and
105 Nationality Act.

106 (d) Pursuant to 8 USCS Section 1373 and 8 USCS Section
107 1644.

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

112 (8) A person who is a legal resident of this state may bring
113 an action in circuit court to challenge any official or agency of
114 this state or a political subdivision of this state that
115 affirmatively adopts or implements a written policy, or other
116 official action or ordinance duly spread upon its minutes that
117 limits or restricts the enforcement of federal immigration laws,
118 including, but not limited to, 8 USCS Sections 1373 and 1644, to
119 less than the full extent permitted by federal law. If there is a
120 judicial finding that an entity has violated this section, the
121 court shall order that the entity pay a civil penalty of not less
122 than Five Hundred Dollars (\$500.00) and not more than Five
123 Thousand Dollars (\$5,000.00) for each day that the policy has
124 remained in effect after the filing of an action pursuant to this
125 subsection.

126 (9) A court shall collect the civil penalty prescribed in
127 subsection (8) of this section and remit the civil penalty to the
128 State Treasurer for deposit in the Immigration Reimbursement Fund
129 established by Section 7 of House Bill No. 488, 2012 Regular
130 Session.

131 (10) The court may award court costs and reasonable
132 attorney's fees to any person or any official or agency of this



133 state or a political subdivision of this state that prevails by an
134 adjudication on the merits in a proceeding brought pursuant to
135 this section.

136 (11) A law enforcement officer shall not be liable in any
137 civil action for an arrest based on probable cause and in good
138 faith pursuant to subsection (2) of this section, or failure, in
139 good faith, to make an arrest pursuant to subsection (2) of this
140 section. A law enforcement officer is indemnified by the law
141 enforcement officer's agency against reasonable costs and
142 expenses, including attorney's fees, incurred by the officer in
143 connection with any action, suit or proceeding brought pursuant to
144 this section in which the officer may be a defendant by reason of
145 the officer being or having been a member of the law enforcement
146 agency.

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

151 **SECTION 3.** (1) (a) Every public elementary and secondary
152 school in this state, at the time of enrollment in kindergarten or
153 any grade in such school, shall determine whether the student
154 enrolling in public school was born outside the jurisdiction of
155 the United States or is the child of an alien not lawfully present
156 in the United States and qualifies for assignment to an English as
157 Second Language class or other remedial program.

158 (b) The public school, when making the determination
159 required by paragraph (a), shall rely upon presentation of the
160 student's original birth certificate, or a certified copy thereof.

161 (c) If, upon review of the student's birth certificate,
162 it is determined that the student was born outside the
163 jurisdiction of the United States or is the child of an alien not
164 lawfully present in the United States, or where such certificate
165 is not available for any reason, the parent, guardian, or legal



166 custodian of the student shall notify the school within thirty
167 (30) days of the date of the student's enrollment of the actual
168 citizenship or immigration status of the student under federal
169 law.

170 (d) Notification shall consist of both of the
171 following:

172 (i) The presentation for inspection, to a school
173 official designated for such purpose by the school district in
174 which the child is enrolled, of official documentation
175 establishing the citizenship and, in the case of an alien, the
176 immigration status of the student, or alternatively by submission
177 of a notarized copy of such documentation to such official.

178 (ii) Attestation by the parent, guardian, or legal
179 custodian, under penalty of perjury, that the document states the
180 true identity of the child. If the student or his or her parent,
181 guardian, or legal representative possesses no such documentation
182 but nevertheless maintains that the student is either a United
183 States citizen or an alien lawfully present in the United States,
184 the parent, guardian, or legal representative of the student may
185 sign a declaration so stating, under penalty of perjury.

186 (e) If no such documentation or declaration is
187 presented, the school official shall presume for the purposes of
188 reporting under this section that the student is an alien
189 unlawfully present in the United States.

190 (2) Each school district in this state shall collect and
191 compile data as required by this section.

192 (3) Each school district shall submit to the State Board of
193 Education an annual report listing the number of all alien
194 students determined to be unlawfully present in such school
195 district each school year.

196 (4) (a) The State Board of Education shall compile and
197 submit an annual public report to the Legislature.



198 (b) The report shall provide the total aggregate number
199 of alien students determined to be unlawfully present in each
200 school district in each school year.

201 (5) Public disclosure by any person of information obtained
202 pursuant to this section which personally identifies any student
203 shall be unlawful, except for purposes permitted pursuant to 8
204 USCS, Sections 1373 and 1644. Any person intending to make a
205 public disclosure of information that is classified as
206 confidential under this section, on the ground that such
207 disclosure constitutes a use permitted by federal law, shall first
208 apply to the Attorney General and receive an opinion from the
209 Attorney General that such disclosure does not violate the
210 requirements of this subsection a waiver of confidentiality from
211 the requirements of this subsection.

212 (6) A student whose personal identity has been negligently
213 or intentionally disclosed in violation of this section shall be
214 deemed to have suffered an invasion of the student's right to
215 privacy. The student shall have a civil remedy for such violation
216 against the agency or person that has made the unauthorized
217 disclosure.

218 (7) The State Board of Education shall construe all
219 provisions of this section in conformity with federal law.

220 (8) This section shall be enforced without regard to race,
221 religion, gender, ethnicity, or national origin.

222 **SECTION 4.** (1) For the purposes of this section, "business
223 transaction" includes any transaction between a person and the
224 state or a political subdivision of the state, including, but not
225 limited to, applying for or renewing a motor vehicle license
226 plate, applying for or renewing a driver's license or nondriver
227 identification card, applying for or renewing a business license,
228 or applying for any license issued by the state. "Business
229 transaction" does not include applying for a marriage license nor
230 does it include any business transaction entered into prior to the



231 effective date of this act or any transaction conducted by any
232 business executive of an international corporation authorized to
233 transact business in the state.

234 (2) An alien not lawfully present in the United States shall
235 not enter into or attempt to enter into a business transaction
236 with the state or a political subdivision of the state and no
237 person shall enter into a business transaction or attempt to enter
238 into a business transaction on behalf of an alien not lawfully
239 present in the United States.

240 (3) Any person entering into a business transaction or
241 attempting to enter into a business transaction with this state or
242 a political subdivision of this state shall be required to
243 demonstrate his or her United States citizenship, or if he or she
244 is an alien, his or her lawful presence in the United States to
245 the person conducting the business transaction on behalf of this
246 state or a political subdivision of this state. United States
247 citizenship shall be demonstrated by presentation of proper
248 documentation as required by law. An alien's lawful presence in
249 the United States shall be demonstrated by this state's or a
250 political subdivision of this state's verification of the alien's
251 lawful presence through the Systematic Alien Verification for
252 Entitlements program operated by the Department of Homeland
253 Security, or by other verification with the Department of Homeland
254 Security pursuant to 8 USCS, Section 1373(c).

255 (4) A violation of this section is a felony punishable by a
256 fine of not more than Five Thousand Dollars (\$5,000.00) or
257 imprisonment in the custody of the Department of Corrections for
258 not more than five (5) years, or both.

259 (5) An agency of this state or a county, city, town, or
260 other political subdivision of this state may not consider race,
261 color, or national origin in the enforcement of this section
262 except to the extent permitted by the United States Constitution
263 or the Mississippi Constitution of 1890.



264 (6) In the enforcement of this section, an alien's
265 immigration status shall be determined by verification of the
266 alien's immigration status with the federal government pursuant to
267 8 USCS, Section 1373(c). An official of this state or political
268 subdivision of this state shall not attempt to independently make
269 a final determination of whether an alien is lawfully present in
270 the United States.

271 **SECTION 5.** Section 99-3-7, Mississippi Code of 1972, is
272 amended as follows:

273 99-3-7. (1) An officer or private person may arrest any
274 person without warrant, for an indictable offense committed, or a
275 breach of the peace threatened or attempted in his presence; or
276 when a person has committed a felony, though not in his presence;
277 or when a felony has been committed, and he has reasonable ground
278 to suspect and believe the person proposed to be arrested to have
279 committed it; or on a charge, made upon reasonable cause, of the
280 commission of a felony by the party proposed to be arrested. And
281 in all cases of arrests without warrant, the person making such
282 arrest must inform the accused of the object and cause of the
283 arrest, except when he is in the actual commission of the offense,
284 or is arrested on pursuit.

285 (2) Any law enforcement officer may arrest any person on a
286 misdemeanor charge without having a warrant in his possession when
287 a warrant is in fact outstanding for that person's arrest and the
288 officer has knowledge through official channels that the warrant
289 is outstanding for that person's arrest. In all such cases, the
290 officer making the arrest must inform such person at the time of
291 the arrest the object and cause therefor. If the person arrested
292 so requests, the warrant shall be shown to him as soon as
293 practicable.

294 (3) (a) Any law enforcement officer shall arrest a person
295 with or without a warrant when he has probable cause to believe
296 that the person has, within twenty-four (24) hours of such arrest,



297 knowingly committed a misdemeanor which is an act of domestic
298 violence or knowingly violated provisions of an ex parte
299 protective order, protective order after hearing or court-approved
300 consent agreement entered by a chancery, circuit, county, justice
301 or municipal court pursuant to the Protection from Domestic Abuse
302 Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972,
303 or a restraining order entered by a foreign court of competent
304 jurisdiction to protect an applicant from domestic violence as
305 defined by Section 97-3-7 that requires the person to refrain from
306 further abuse or threats of abuse, to absent himself from a
307 particular geographic area, or prohibit such person from being
308 within a specified distance of another person or persons.

309 (b) If a law enforcement officer has probable cause to
310 believe that two (2) or more persons committed a misdemeanor which
311 is an act of domestic violence as defined herein, or if two (2) or
312 more persons make complaints to the officer, the officer shall
313 attempt to determine who was the principal aggressor. The term
314 principal aggressor is defined as the party who poses the most
315 serious ongoing threat, or who is the most significant, rather
316 than the first, aggressor. The officer shall presume that arrest
317 is not the appropriate response for the person or persons who were
318 not the principal aggressor. If the officer affirmatively finds
319 more than one (1) principal aggressor was involved, the officer
320 shall document those findings.

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

324 (i) Evidence from the persons involved in the
325 domestic abuse;

326 (ii) The history of domestic abuse between the
327 parties, the likelihood of future injury to each person, and the
328 intent of the law to protect victims of domestic violence from
329 continuing abuse;



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

332 (iv) Evidence from witnesses of the domestic
333 violence.

334 (d) A law enforcement officer shall not base the
335 decision of whether to arrest on the consent or request of the
336 victim.

337 (e) A law enforcement officer's determination regarding
338 the existence of probable cause or the lack of probable cause
339 shall not adversely affect the right of any party to independently
340 seek appropriate remedies.

341 (4) (a) Any person authorized by a court of law to
342 supervise or monitor a convicted offender who is under an
343 intensive supervision program may arrest the offender when the
344 offender is in violation of the terms or conditions of the
345 intensive supervision program, without having a warrant, provided
346 that the person making the arrest has been trained at the Law
347 Enforcement Officers Training Academy established under Section
348 45-5-1 et seq., or at a course approved by the Board on Law
349 Enforcement Officer Standards and Training.

350 (b) For the purposes of this subsection, the term
351 "intensive supervision program" means an intensive supervision
352 program of the Department of Corrections as described in Section
353 47-5-1001 et seq., or any similar program authorized by a court
354 for offenders who are not under jurisdiction of the Department of
355 Corrections.

356 (5) A law enforcement officer who makes an arrest without a
357 warrant under the authority of this section shall verify the
358 immigration status of the person arrested as provided in Section 2
359 of House Bill No. 488, 2012 Regular Session.

360 (6) As used in subsection (3) of this section, the phrase
361 "misdemeanor which is an act of domestic violence" shall mean one
362 or more of the following acts between current or former spouses or



363 a child of current or former spouses, persons living as spouses or
364 who formerly lived as spouses or a child of persons living as
365 spouses or who formerly lived as spouses, other persons related by
366 consanguinity or affinity who reside or formerly resided together,
367 persons who have a current or former dating relationship, or
368 persons who have a biological or legally adopted child together:

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

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

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

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

387 (8) A law enforcement officer shall not be held liable in
388 any civil action for an arrest based on probable cause and in good
389 faith pursuant to subsection (3) of this section, or failure, in
390 good faith, to make an arrest pursuant to subsection (3) of this
391 section.

392 **SECTION 6.** Section 71-11-3, Mississippi Code of 1972, is
393 amended as follows:

394 71-11-3. (1) This chapter shall be known as the
395 "Mississippi Employment Protection Act."



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

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

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

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

409 (c) "Third-party employer" is any person or company
410 that provides workers for another person or company. This
411 includes, but is not limited to, leasing companies and contract
412 employers.

413 (d) "Status verification system" means the electronic
414 verification of work authorization program of the Illegal
415 Immigration Reform and Immigration Responsibility Act of 1996,
416 Public Law 104-208, Division C, Section 403(a); 8 USC, Section
417 1324a, and operated by the United States Department of Homeland
418 Security, known as the E-Verify Program.

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

421 "Unauthorized alien" shall not include business executives of
422 international corporations authorized to transact business in the
423 state.

424 (f) "Legal alien" means an individual who was lawfully
425 present in the United States at the time of employment and for the
426 duration of employment, or who was permanently residing in the
427 United States under color of law at the time of employment and for
428 the duration of employment.



429 (g) "Public employer" means every department, agency or
430 instrumentality of the state or a political subdivision of the
431 state.

432 (h) "Subcontractor" means a subcontractor, contract
433 employee, staffing agency or any contractor regardless of its
434 tier.

435 (4) (a) Employers in the State of Mississippi shall only
436 hire employees who are legal citizens of the United States of
437 America or are legal aliens. Employers shall not use a third
438 party employer to hire an unauthorized alien.

439 (b) (i) Every employer shall register with and utilize
440 the status verification system to verify the federal employment
441 authorization status of all newly hired employees and shall keep a
442 record of the verification for the duration of the employee's
443 employment or at least three (3) years, whichever is longer.

444 (ii) No contractor or subcontractor shall hire any
445 employee unless the contractor or subcontractor registers and
446 participates in the status verification system to verify the work
447 eligibility status of all newly hired employees.

448 (iii) No contractor or subcontractor who enters
449 into a contract with a public employer shall enter into such a
450 contract or subcontract unless the contractor or subcontractor
451 registers and participates in the status verification system to
452 verify information of all newly hired employees.

453 (c) The provisionsg of this section shall not apply to
454 any contracts entered into on or before July 1, 2008.

455 (d) (i) It shall be a discriminatory practice for an
456 employer to discharge an employee working in Mississippi who is a
457 United States citizen or permanent resident alien while retaining
458 an employee who the employing entity knows, or reasonably should
459 have known, is an unauthorized alien hired after July 1, 2008, and
460 who is working in Mississippi in a job category that requires
461 equal skill, effort and responsibility, and which is performed



462 under similar working conditions, as defined by 29 USCS, Section
463 206(d)(1), as the job category held by the discharged employee.

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

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

473 (5) Any employer that complies with the requirements of this
474 section shall be held harmless by the Mississippi Department of
475 Employment Security, provided the employer is not directly
476 involved in the creation of any false documents, and provided that
477 the employer did not knowingly and willfully accept false
478 documents from the employee.

479 (6) (a) All third-party employers that conduct business in
480 Mississippi shall register to do business in Mississippi with the
481 Mississippi Department of Employment Security before placing
482 employees into the workforce in Mississippi.

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

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

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



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

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

498 (e) (i) Any employer violating the provisions of this
499 section shall be subject to the cancellation of any state or
500 public contract, resulting in ineligibility for any state or
501 public contract for up to three (3) years, the loss of any
502 license, permit, certificate or other document granted to the
503 employer by any agency, department or government entity in the
504 State of Mississippi for the right to do business in Mississippi
505 for up to one (1) year, or both.

506 (ii) The contractor or employer shall be liable
507 for any additional costs incurred by the agencies and institutions
508 of the State of Mississippi, or any of its political subdivisions,
509 because of the cancellation of the contract or the loss of any
510 license or permit to do business in the state.

511 (iii) Any person or entity penalized under this
512 paragraph shall have the right to appeal to the appropriate entity
513 imposing sanctions or to the circuit court of competent
514 jurisdiction.

515 (f) The Department of Employment Security, Department
516 of Revenue, Secretary of State, Department of Human Services,
517 Board of Public Contractors, the Attorney General and any other
518 state agency, department or government entity shall have the
519 authority to impose sanctions or seek penalties authorized under
520 this section * * *.

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

523 (i) An employer who hires an employee through a
524 state or federal work program that requires verification of the
525 employee's social security number and provides for verification of



526 the employee's lawful presence in the United States in an
527 employment-authorized immigration status;

528 (ii) Any candidate for employment referred by the
529 Mississippi Department of Employment Security, if the Mississippi
530 Department of Employment Security has verified the social security
531 number and provides for verification of the candidate's lawful
532 presence in the United States in an employment-authorized
533 immigration status; or

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

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

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

542 (c) (i) It shall be a felony for any person to accept
543 or perform employment for compensation knowing or in reckless
544 disregard that the person is an unauthorized alien with respect to
545 employment during the period in which the unauthorized employment
546 occurred. Upon conviction, a violator shall be subject to
547 imprisonment in the custody of the Department of Corrections for
548 not less than one (1) year nor more than five (5) years, a fine of
549 not less than One Thousand Dollars (\$1,000.00) nor more than Ten
550 Thousand Dollars (\$10,000.00), or both.

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

556 (d) Any employer who knowingly or in reckless disregard
557 of the provisions of this section hires an unauthorized alien
558 shall be subject to a civil fine of not less than One Thousand



559 Dollars (\$1,000.00) nor more than Ten Thousand Dollars
560 (\$10,000.00) per unauthorized alien. The civil penalty imposed by
561 this paragraph shall be deposited in the Immigration Reimbursement
562 Fund established by Section 7 of House Bill No. 488, 2012 Regular
563 Session.

564 **SECTION 7.** (1) The Department of Public Safety shall
565 implement an Immigration Reimbursement Program that will provide
566 reimbursement to county jails and municipal jails from the fund
567 created in this section, to the extent funds may be available
568 therefor, of costs relating to incarceration of certain illegal
569 aliens, not to exceed Twenty Dollars (\$20.00) per eligible inmate
570 per day.

571 (2) There is created in the State Treasury a special fund to
572 be known as the Immigration Reimbursement Fund. The purpose of
573 the fund shall be to provide reimbursement to local governments of
574 unrecovered costs relating to the incarceration of illegal aliens.
575 Monies from the fund shall be distributed by the State Treasurer
576 upon warrants issued by the Department of Public Safety. The fund
577 shall be a continuing fund, not subject to fiscal-year
578 limitations, and shall consist of:

- 579 (a) Monies appropriated by the Legislature;
580 (b) The interest accruing to the fund;
581 (c) Monies received under the provisions of Section
582 2(9) and Section 71-11-3(8)(d) of House Bill No. 488, 2012 Regular
583 Session;
584 (d) Monies received from the federal government;
585 (e) Donations; and
586 (f) Monies received from such other sources as may be
587 provided by law.

588 **SECTION 8.** All law enforcement officers of this state are
589 authorized to assist federal agencies in the enforcement of
590 federal immigration law.



591 **SECTION 9.** The State Board of Contractors shall have the
592 duty to review contractor compliance with the status verification
593 system requirements for employers and public employers set forth
594 in Section 71-11-3(6) (k) of the Mississippi Employment Protection
595 Act in the course of the board's performance of its regular
596 inspection responsibilities under Title 31 of the Mississippi Code
597 of 1972. This information may be obtained by investigation, by
598 hearings, or by any other reasonable and lawful means. The board
599 shall keep information concerning contractor compliance
600 appropriately filed and shall disseminate to any interested person
601 information as to contractor compliance; the information
602 disseminated shall not identify individual employees or give
603 identifying information about individual employees. The board
604 shall have the power of subpoena in enforcing this section. If an
605 inspector finds a violation of the Mississippi Employment
606 Protection Act set forth in Section 71-11-3(6) (k), the board shall
607 file a complaint with the Attorney General under Section
608 71-11-3(4). The board is authorized to promulgate rules and
609 regulations to implement the provisions of this section.

610 **SECTION 10.** Nothing in this act shall prohibit any bona fide
611 nonprofit, religious or charitable organization from meeting, in
612 good faith, the immediate basic and human needs of any person
613 without charge or reimbursement.

614 **SECTION 11.** (1) If a provision of this act or its
615 application to any person or circumstance is held invalid, the
616 invalidity does not affect other provisions or applications of the
617 act that can be given effect without the invalid provision or
618 application, and to this end the provisions of this act are
619 severable.

620 (2) The terms of this act regarding immigration shall be
621 construed to have the meanings given to them under federal
622 immigration law.



623 (3) This act shall be implemented in a manner consistent
624 with federal laws regulating immigration, protecting the civil
625 rights of all persons and respecting the privileges and immunities
626 of United States citizens.

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

631 **SECTION 12.** This act shall take effect and be in force from
632 and after July 1, 2012.

