HOUSE BILL NO. 488

AN ACT TO CREATE THE MISSISSIPPI SUPPORT OUR LAW ENFORCEMENT AND SAFE NEIGHBORHOODS ACT OF 2012; TO SET FORTH LEGISLATIVE INTENT AND SHORT TITLE; TO REQUIRE COOPERATION AND ASSISTANCE IN ENFORCEMENT OF IMMIGRATION LAWS AND TO INDEMNIFY LAW ENFORCEMENT OFFICERS FOR IMPLEMENTATION OF THIS ACT; TO CREATE THE OFFENSE OF WILLFUL FAILURE TO COMPLETE AND CARRY AN ALIEN REGISTRATION DOCUMENT AND PRESCRIBE PENALTIES THEREFOR; TO REQUIRE PUBLIC SCHOOLS TO DETERMINE THE STATUS OF ENROLLING STUDENTS; TO PROHIBIT ILLEGAL ALIENS FROM ENTERING INTO BUSINESS TRANSACTIONS WITH THE STATE OR A POLITICAL SUBDIVISION; TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE ARREST WITHOUT WARRANT STATUTE; TO AMEND SECTION 71-11-3, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR RETENTION OF E-VERIFY CONFIRMATIONS FOR AT LEAST 3 YEARS; TO CREATE THE SPECIAL FUND TO BE KNOWN AS THE IMMIGRATION REIMBURSEMENT FUND; TO AUTHORIZE ALL MISSISSIPPI LAW ENFORCEMENT OFFICERS TO ASSIST FEDERAL AGENCIES IN ENFORCEMENT OF IMMIGRATION LAW; TO REQUIRE THE BOARD OF PUBLIC CONTRACTORS TO REVIEW CONTRACTOR COMPLIANCE WITH E-VERIFY REQUIREMENTS; TO PROVIDE FOR SEVERABILITY, IMPLEMENTATION AND CONSTRUCTION; AND FOR RELATED PURPOSES.

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

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

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

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

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

(a) A valid Mississippi driver's license.
(b) A valid Mississippi identification card issued under Title 45, Chapter 35, Mississippi Code of 1972.
(c) A valid tribal enrollment card or other form of tribal identification.
(d) If the entity requires proof of legal presence in the United States before issuance, any valid United States federal, state or local government issued identification or driver's license.

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

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

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

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

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

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

(a) Determining eligibility for any public benefit,
service or license provided by any federal, state, local or other
political subdivision of this state.
(b) Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state.

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

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

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

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

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

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

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

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

SECTION 3. Willful failure to complete and carry an alien
registration document; assessment; exception; authenticated
records; classification. (1) In addition to any violation of
federal law, a person is guilty of willful failure to complete and
carry an alien registration document if the person is in violation
of 8 USCS Section 1304(e) or 1306(a).

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

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

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

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

(4) A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, or release from confinement on any basis except as authorized by Section 47-7-4 until the sentence imposed by the court has been served or the person is eligible for release pursuant to Section 47-7-47 or 47-5-138.

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

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

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

SECTION 4. (1) (a) Every public elementary and secondary school in this state, at the time of enrollment in kindergarten or any grade in such school, shall determine whether the student enrolling in public school was born outside the jurisdiction of the United States or is the child of an alien not lawfully present in the United States and qualifies for assignment to an English as Second Language class or other remedial program.

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

(c) If, upon review of the student's birth certificate, it is determined that the student was born outside the jurisdiction of the United States or is the child of an alien not lawfully present in the United States, or where such certificate is not available for any reason, the parent, guardian, or legal custodian of the student shall notify the school within thirty
(30) days of the date of the student's enrollment of the actual citizenship or immigration status of the student under federal law.

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

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

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

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

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

(3) Each school district shall submit to the State Board of Education an annual report listing all data obtained pursuant to this section.

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

(b) The report shall provide data, aggregated by public school, regarding the numbers of United States citizens, of lawfully present aliens by immigration classification, and of
aliens believed to be unlawfully present in the United States enrolled at all primary and secondary public schools in this state. The report shall also provide the number of students in each category participating in English as a Second Language Programs enrolled at such schools.

(c) The report shall analyze and identify the effects upon the standard or quality of education provided to students who are citizens of the United States residing in Mississippi that may have occurred, or are expected to occur in the future, as a consequence of the enrollment of students who are aliens not lawfully present in the United States.

(d) The report shall analyze and itemize the fiscal costs to the state and political subdivisions thereof of providing educational instruction, computers, textbooks and other supplies, free or discounted school meals, and extracurricular activities to students who are aliens not lawfully present in the United States.

(e) The State Board of Education shall prepare and issue objective baseline criteria for identifying and assessing the other educational impacts on the quality of education provided to students who are citizens of the United States, due to the enrollment of aliens who are not lawfully present in the United States, in addition to the statistical data on citizenship and immigration status and English as a Second Language enrollment required by this act. The State Board of Education may contract with reputable scholars and research institutions to identify and validate such criteria. The State Board of Education shall assess such educational impacts and include such assessments in its reports to the Legislature.

(5) Public disclosure by any person of information obtained pursuant to this section which personally identifies any student shall be unlawful, except for purposes permitted pursuant to 8 USCS, Sections 1373 and 1644. Any person intending to make a public disclosure of information that is classified as
confidential under this section, on the ground that such
disclosure constitutes a use permitted by federal law, shall first
apply to the Attorney General and receive a waiver of
confidentiality from the requirements of this subsection.

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

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

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

SECTION 5. (1) For the purposes of this section, "business
transaction" includes any transaction between a person and the
state or a political subdivision of the state, including, but not
limited to, applying for or renewing a motor vehicle license
plate, applying for or renewing a driver's license or nondriver
identification card, or applying for or renewing a business
license. "Business transaction" does not include applying for a
marriage license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Evidence from witnesses of the domestic violence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) "Employee" is any person or entity that is hired to perform work within the State of Mississippi and to whom a United States Internal Revenue Service Form W-2 or Form 1099 must be issued.
(c) "Third-party employer" is any person or company that provides workers for another person or company. This includes, but is not limited to, leasing companies and contract employers.

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

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

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

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

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

(4) (a) Employers in the State of Mississippi shall only hire employees who are legal citizens of the United States of America or are legal aliens. For purposes of this section, a legal alien is an individual who was lawfully present in the United States at the time of employment and for the duration of employment, or was permanently residing in the United States under color of law at the time of employment and for the duration of employment.

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

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

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

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

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

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

(iii) No cause of action for a violation of this
section shall lie under any other Mississippi law but shall arise
solely from the provisions of this section.
(5) Any employer that complies with the requirements of this section shall be held harmless by the Mississippi Department of Employment Security, provided the employer is not directly involved in the creation of any false documents, and provided that the employer did not knowingly and willfully accept false documents from the employee.

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

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

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

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

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

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

(e) (i) Any employer violating the provisions of this section shall be subject to the cancellation of any state or public contract, resulting in ineligibility for any state or public contract for up to three (3) years, the loss of any license, permit, certificate or other document granted to the employer by any agency, department or government entity in the State of Mississippi for the right to do business in Mississippi for up to one (1) year, or both.
(ii) The contractor or employer shall be liable for any additional costs incurred by the agencies and institutions of the State of Mississippi, or any of its political subdivisions, because of the cancellation of the contract or the loss of any license or permit to do business in the state.

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

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

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

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

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

(iii) Individual homeowners who hire workers on their private property for noncommercial purposes, unless required by federal law to do so.
(b) (i) Compliance with the sections of this statute shall not exempt the employer from regulations and requirements related to any federal laws or procedures related to employers.

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

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

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

SECTION 8. (1) The Department of Public Safety shall implement an Immigration Reimbursement Program that will provide reimbursement to county jails and municipal jails, to the extent funds may be available therefor, of costs relating to incarceration of certain illegal aliens, not to exceed Twenty Dollars ($20.00) per eligible inmate per day.

(2) There is created in the State Treasury a special fund to be known as the Immigration Reimbursement Fund. The purpose of the fund shall be to provide reimbursement to local governments of unrecovered costs relating to the incarceration of illegal aliens for the offense or alleged offense of willful failure to carry documentation as set forth in Section 3 of House Bill No. ____, 2012 Regular Session, for the Immigration Reimbursement Program. Monies from the fund shall be distributed by the State Treasurer...
upon warrants issued by the Department of Public Safety. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature;
(b) The interest accruing to the fund;
(c) Monies received under the provisions of Section 2(9) of House Bill No. ____, 2012 Regular Session;
(d) Monies received from the federal government;
(e) Donations; and
(f) Monies received from such other sources as may be provided by law.

**SECTION 9.** All law enforcement officers of this state are authorized to assist federal agencies in the enforcement of federal immigration law.

**SECTION 10.** The State Board of Contractors shall have the duty to review contractor compliance with the status verification system requirements for employers and public employers set forth in Section 71-11-3(6)(k) of the Mississippi Employment Protection Act in the course of the board's performance of its regular inspection responsibilities under Title 31 of the Mississippi Code of 1972. This information may be obtained by investigation, by hearings, or by any other reasonable and lawful means. The board shall keep information concerning contractor compliance appropriately filed and shall disseminate to any interested person information as to contractor compliance; the information disseminated shall not identify individual employees or give identifying information about individual employees. The board shall have the power of subpoena in enforcing this section. If an inspector finds a violation of the Mississippi Employment Protection Act set forth in Section 71-11-3(6)(k), the board shall file a complaint with the Attorney General under Section 71-11-3(4).
SECTION 11.  (1) If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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

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

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

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