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 REQUIRE PUBLIC SCHOOLS
TO DETERMINE THE STATUS OF ENROLLING STUDENTS; TO PROHIBIT ILLEGAL
ALIENS FROM ENTERING INTO BUSINESS TRANSACTIONS WITH THE STATE; 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 THREE 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 THE DISSEMINATION OF
INFORMATION REGARDING EMPLOYMENT OPPORTUNITIES; 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 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 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 USC 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.
   (e) Proof that the person is an international business
executive of an international corporation authorized to transact
business in the state.
(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.

(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, public assistance, 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 agency of this state or a political subdivision of this state that affirmatively adopts or implements a written policy, or ordinance duly spread upon its minutes 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 7 of House Bill No. 488, 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) A law enforcement officer shall not be liable in any civil action for an arrest based on probable cause and in good faith pursuant to subsection (2) of this section, or failure, in good faith, to make an arrest pursuant to subsection (2) of this section. 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. (1) For the purposes of this section, "business transaction" includes any transaction between a person and 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, applying for or renewing a business license, or applying for any license issued by the state grants, loans or credits. "Business transaction" does not include applying for a marriage license nor does it include any business transaction entered into prior to the effective date of this act or any transaction conducted by any business executive of an international corporation authorized to transact business in the state.

(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 4. 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.
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

(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 pursuant to subsection (3) of this section, or failure to
make an arrest pursuant to subsection (3) of this section.

SECTION 5. 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.
"Unauthorized alien" shall not include business executives of
international corporations authorized to transact business in the
state.

(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. Employers shall not use a third party employer to hire an unauthorized alien.

(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. This subparagraph shall not apply to a contractor or subcontractor who is self-employed and has no 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.

(f) 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 state 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 of the candidate and determined that the candidate is authorized to work in the United States.
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.

(d) Any employer who knowingly or in reckless disregard of the provisions of this section hires an unauthorized alien shall be subject to revocation of any license authorizing the employer to conduct business in the state.

SECTION 6. (1) The Department of Public Safety shall implement an Immigration Reimbursement Program that will provide reimbursement to county jails and municipal jails from the fund created in this section, 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.
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) and Section 71-11-3(8)(d) of House Bill No. 488, 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 7. All law enforcement officers of this state are
authorized to assist federal agencies in the enforcement of
federal immigration law.

SECTION 8. 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). The board is authorized to promulgate rules and regulations to implement the provisions of this section.

SECTION 9. Nothing in this act shall prohibit any bona fide nonprofit, religious or charitable organization from meeting, in good faith, the immediate basic and human needs of any person without charge or reimbursement.

SECTION 10. The Governor is authorized to research, develop and disseminate information regarding jobs that may become available as the result of the passage of this act and to consult with the Mississippi Department of Agriculture and Commerce regarding same. Such information shall be made available to provide employment opportunities for Mississippi citizens and legal migrant workers.

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.