

1 HB658  
2 137986-6  
3 By Representatives Hammon, Davis, Carns, Collins, Henry, Mask,  
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5 Millican, Bridges, Laird, Roberts, Sanderford, Johnson (W),  
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10 RFD: Public Safety and Homeland Security  
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1 31-13-8, 31-13-9, 31-13-10, 31-13-11, 31-13-12, 31-13-13,  
2 31-13-14, 31-13-15, and 31-13-17, Code of Alabama 1975, are  
3 amended to read as follows:

4 "§31-13-3.

5 "For the purposes of this chapter, the following  
6 words shall have the following meanings:

7 "(1) ALIEN. Any person who is not a citizen or  
8 national of the United States, as described in 8 U.S.C. §  
9 1101, et seq., and any amendments thereto.

10 "(2) BUSINESS ENTITY. Any person or group of persons  
11 employing one or more persons within the State of Alabama and  
12 performing or engaging in any activity, enterprise,  
13 profession, or occupation for gain, benefit, advantage, or  
14 livelihood, whether for profit or not for profit. Business  
15 entity shall include, but not be limited to, the following:

16 "a. Self-employed individuals, business entities  
17 filing articles of incorporation, partnerships, limited  
18 partnerships, limited liability companies, foreign  
19 corporations, foreign limited partnerships, foreign limited  
20 liability companies authorized to transact business in this  
21 state, business trusts, and any business entity that registers  
22 with the Secretary of State.

23 "b. Any business entity that possesses a business  
24 license, permit, certificate, approval, registration, charter,  
25 or similar form of authorization issued by the state, any  
26 business entity that is exempt by law from obtaining such a

1 business license, and any business entity that is operating  
2 unlawfully without a business license.

3 "(3) CONTRACTOR. A person, employer, or business  
4 entity that enters into an agreement that is required to be  
5 competitively bid or that, if entered into by the state or an  
6 agency thereof, is or would be required to be submitted to the  
7 Joint Legislative Contract Review Oversight Committee and that  
8 is to perform any service or work or to provide a certain  
9 product in exchange for valuable consideration. This  
10 definition shall include, but not be limited to, a general  
11 contractor, subcontractor, independent contractor, contract  
12 employee, project manager, or a recruiting or staffing entity.  
13 For the purposes of this chapter, the term "contractor" shall  
14 not include any person, employer, or business entity that does  
15 not employ any person within the State of Alabama.

16 "(4) EMPLOYEE. Any person directed, allowed, or  
17 permitted to perform labor or service of any kind in the State  
18 of Alabama by an employer. The employees of an independent  
19 contractor working for a business entity shall not be regarded  
20 as the employees of the business entity, for the purposes of  
21 this chapter. This term does not include any inmate in the  
22 legal custody of the state, a county, or a municipality.

23 "(5) EMPLOYER. Any person, firm, corporation,  
24 partnership, joint stock association, agent, manager,  
25 representative, foreman, or other person having control or  
26 custody of any employment, place of employment, or of any  
27 employee within the State of Alabama, including any person or

1 entity employing any person for hire within the State of  
2 Alabama, including a public employer. This term shall not  
3 include the occupant of a household contracting with another  
4 person to perform casual domestic labor within the household.

5 "(6) EMPLOYMENT. The act of employing or state of  
6 being employed, engaged, or hired to perform work or service  
7 of any kind or character within the State of Alabama,  
8 including any job, task, work, labor, personal services, or  
9 any other activity for which compensation is provided,  
10 expected, or due, including, but not limited to, all  
11 activities conducted by a business entity or employer. This  
12 term shall not include casual domestic labor performed in a  
13 household on behalf of the occupant of the household or the  
14 relationship between a contractor and the employees of a  
15 subcontractor performing work for the contractor.

16 "(7) E-VERIFY. The electronic verification of  
17 federal employment authorization program of the Illegal  
18 Immigration Reform and Immigrant Responsibility Act of 1996,  
19 P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §1324(a),  
20 and operated by the United States Department of Homeland  
21 Security, or its successor program.

22 "(8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the  
23 electronic verification of work authorization programs  
24 operated by the United States Department of Homeland Security  
25 or an equivalent federal work authorization program operated  
26 by the United States Department of Homeland Security to verify  
27 information of newly hired employees, under the Immigration

1 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the  
2 Illegal Immigration Reform and Immigrant Responsibility Act of  
3 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C.  
4 §1324(a).

5 "(9) KNOWS or KNOWINGLY. A person acts knowingly or  
6 with knowledge with respect to either of the following:

7 "a. The person's conduct or to attendant  
8 circumstances when the person is aware of the nature of the  
9 person's conduct or that those circumstances exist.

10 "b. A result of the person's conduct when the person  
11 is reasonably aware that the person's conduct is likely to  
12 cause that result.

13 "(10) LAWFUL PRESENCE or LAWFULLY PRESENT. A person  
14 shall be regarded as an alien unlawfully present in the United  
15 States only if the person's unlawful immigration status has  
16 been verified by the federal government pursuant to 8 U.S.C. §  
17 1373(c). No officer of this state or any political subdivision  
18 of this state shall attempt to independently make a final  
19 determination of an alien's immigration status. An alien  
20 possessing self-identification in any of the following forms  
21 is entitled to the presumption that he or she is an alien  
22 lawfully present in the United States:

23 "a. A valid, unexpired Alabama driver's license or  
24 an Alabama driver's license that expired within the then  
25 preceding six months.

26 "b. A valid, unexpired Alabama nondriver  
27 identification card.

1 "c. A valid tribal enrollment card or other form of  
2 tribal identification bearing a photograph or other biometric  
3 identifier.

4 "d. Any valid United States federal or state  
5 government issued identification document bearing a photograph  
6 or other biometric identifier, if issued by an entity that  
7 requires proof of lawful presence in the United States before  
8 issuance.

9 "e. A foreign passport with an unexpired United  
10 States Visa and a corresponding stamp or notation by the  
11 United States Department of Homeland Security indicating the  
12 bearer's admission to the United States.

13 "f. A foreign passport issued by a visa waiver  
14 country with the corresponding entry stamp and unexpired  
15 duration of stay annotation or an I-94W form by the United  
16 States Department of Homeland Security indicating the bearer's  
17 admission to the United States.

18 g. A valid Uniformed Services Privileges and  
19 Identification Card.

20 "(11) POLICY OR PRACTICE. A guiding principle or  
21 rule that may be written or adopted through repeated actions  
22 or customs, which must be sanctioned by an agency or the head  
23 of an agency.

24 "(12) PROJECT. An undertaking to provide, deliver,  
25 implement, modify, or create any tangible thing or any service  
26 within this state. The term does not include a transaction in  
27 goods, as defined in Section 7-2-105.

1           "~~(12)~~(13) PROTECTIVE SERVICES PROVIDER. A child  
2 protective services worker; adult protective services worker;  
3 protective services provider; or provider of services to  
4 victims of domestic violence, stalking, sexual assault, or  
5 human trafficking that receives federal grants under the  
6 Victim of Crimes Act, the Violence Against Women Act, or the  
7 Family Violence Prevention and Services Act.

8           "~~(13)~~(14) PUBLIC EMPLOYER. Every department, agency,  
9 or instrumentality of the state or a political subdivision of  
10 the state including counties and municipalities.

11           "~~(14)~~(15) STATE-FUNDED ENTITY. Any governmental  
12 entity of the state, a county, or a municipality; or a  
13 political subdivision thereof of the state, a county, or a  
14 municipality; or any other entity that receives ~~any state~~  
15 monies or has received more than 50 percent of its total  
16 revenue in one of the preceding three fiscal years from the  
17 state, a county, a municipality, or a political subdivision  
18 thereof, combined.

19           "~~(15)~~(16) SUBCONTRACTOR. A subcontractor, contract  
20 employee, staffing agency, or any contractor, regardless of  
21 its tier. The term "subcontractor" shall not include any  
22 person, employer, or business entity that does not employ any  
23 person within the State of Alabama.

24           "~~(16)~~(17) UNAUTHORIZED ALIEN. An alien who is not  
25 authorized to work in the United States as defined in 8 U.S.C.  
26 § 1324a(h) (3).

27           "§31-13-5.



1           "(a) No official or agency of this state or any  
2 political subdivision thereof, including, but not limited to,  
3 an officer of a court of this state, may adopt a policy or  
4 practice that limits or restricts the enforcement of federal  
5 immigration laws by limiting communication between its  
6 officers and federal immigration officials in violation of 8  
7 U.S.C. § 1373 or 8 U.S.C. § 1644, or that restricts its  
8 officers in the enforcement of this chapter. If, in the  
9 judgment of the Attorney General of Alabama, an official or  
10 agency of this state or any political subdivision thereof,  
11 including, but not limited to, an officer of a court in this  
12 state, is in violation of this subsection, the Attorney  
13 General shall report any violation of this subsection to the  
14 Governor and the state Comptroller and that agency or  
15 political subdivision shall not be eligible to receive any  
16 funds, grants, or appropriations from the State of Alabama  
17 until such violation has ceased and the Attorney General has  
18 so certified. Any appeal of the determination of the Attorney  
19 General as considered in this section shall be first appealed  
20 to the circuit court of the respective jurisdiction in which  
21 the alleged offending agency resides.

22           "(b) All state officials, agencies, and personnel,  
23 including, but not limited to, an officer of a court of this  
24 state, shall fully comply with and, to the full extent  
25 permitted by law, support the enforcement of federal law  
26 prohibiting the entry into, presence, or residence in the

1 United States of aliens in violation of federal immigration  
2 law.

3 "(c) Except as provided by federal law, officials or  
4 agencies of this state or any political subdivision thereof,  
5 including, but not limited to, an officer of a court of this  
6 state, may not be prohibited or in any way be restricted from  
7 sending, receiving, or maintaining information relating to the  
8 immigration status, lawful or unlawful, of any individual or  
9 exchanging that information with any other federal, state, or  
10 local governmental entity for any of the following official  
11 purposes:

12 "(1) Determining the eligibility for any public  
13 benefit, service, or license provided by any state, local, or  
14 other political subdivision of this state.

15 "(2) Verifying any claim of residence or domicile if  
16 determination of residence or domicile is required under the  
17 laws of this state or a judicial order issued pursuant to a  
18 civil or criminal proceeding of this state.

19 "(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. §  
20 1644.

21 "(d) A person who is a United States citizen or an  
22 alien who is lawfully present in the United States and is a  
23 resident of this state may file a petition with the  
24 appropriate local district attorney or the Attorney General  
25 requesting that he or she bring an action in circuit court to  
26 challenge any official or head of an agency of this state or  
27 political subdivision thereof, including, but not limited to,

1 an officer of a court in this state, that adopts or implements  
2 a policy or practice that is in violation of 8 U.S.C. § 1373  
3 or 8 U.S.C. § 1644. If the district attorney or the Attorney  
4 General elects to not bring an action, he or she shall  
5 publicly state in writing the justification for such a  
6 decision. A district attorney or the Attorney General must  
7 either bring an action or publicly state why no action was  
8 brought within 90 days of receiving a petition. The petition  
9 must be signed under oath and under penalty of perjury, and  
10 must allege with specificity any alleged violations. The  
11 district attorney or the Attorney General shall give the  
12 official or head of an agency, including, but not limited to,  
13 an officer of a court of this state, 30 days' notice of his or  
14 her intent to file such an action. If there is a judicial  
15 finding that an official or head of an agency, including, but  
16 not limited to, an officer of a court in this state, has  
17 violated this section, the court shall order that the officer,  
18 official, or head of an agency pay a civil penalty of not less  
19 than one thousand dollars (\$1,000) and not more than five  
20 thousand dollars (\$5,000) for each day that the policy or  
21 practice has remained in effect after the filing of an action  
22 pursuant to this section.

23 "(e) A court shall collect the civil penalty  
24 prescribed in subsection (d) and remit one half of the civil  
25 penalty to the Alabama Department of Homeland Security and the  
26 second half shall be remitted to the Department of Public  
27 Safety.

1           "(f) Every person working for the State of Alabama  
2 or a political subdivision thereof, including, but not limited  
3 to, a law enforcement agency in the State of Alabama or a  
4 political subdivision thereof, shall have a duty to report  
5 violations of this section of which the person has knowledge.  
6 Any person who willfully fails to report any violation of this  
7 section when the person ~~knows~~ has knowledge that this section  
8 is being violated shall be guilty of obstructing governmental  
9 operations as defined in Section 13A-10-2.

10           "(g) For the purposes of this section, the term  
11 official or head of an agency of this state shall not include  
12 a law enforcement officer or ~~other~~ personnel employed in a  
13 jail who is acting within the line and scope of his or her  
14 duty, except for a sheriff or a chief of police and the head  
15 of any law enforcement agency.

16           "(h) For the purposes of this section, any  
17 proceedings against an official shall be only in his or her  
18 official capacity. ~~Each side on any litigation considered~~  
19 ~~within this section shall bear his or her own costs and fees~~  
20 ~~associated with the litigation unless otherwise ordered by the~~  
21 ~~court~~. For the purposes of this section, the relevant statute  
22 of repose for assessing penalties shall be no more than 30  
23 days prior to the initial allegation of the violations of this  
24 section.

25           "(i) For the purposes of this section, the term  
26 "officer of the court" shall not include any licensed attorney

1 engaged in the representation of his or her client in legal  
2 matters.

3 "§31-13-6.

4 "(a) No official or agency of this state or any  
5 political subdivision thereof, including, but not limited to,  
6 an officer of a court of this state, may adopt a policy or  
7 practice that limits or restricts the enforcement of this  
8 chapter to less than the full extent permitted by this chapter  
9 or that in any way limits communication between its officers  
10 or officials in furtherance of the enforcement of this  
11 chapter. If, in the judgment of the Attorney General of  
12 Alabama, an official or agency of this state or any political  
13 subdivision thereof, including, but not limited to, an officer  
14 of a court of this state, is in violation of this subsection,  
15 the Attorney General shall report any violation of this  
16 subsection to the Governor and the state Comptroller and that  
17 agency or political subdivision shall not be eligible to  
18 receive any funds, grants, or appropriations from the State of  
19 Alabama until such violation has ceased and the Attorney  
20 General has so certified.

21 "(b) All state officials, agencies, and personnel,  
22 including, but not limited to, an officer of a court of this  
23 state, shall fully comply with and, to the full extent  
24 permitted by law, support the enforcement of this chapter.

25 "(c) Except as provided by this chapter, officials  
26 or agencies of this state or any political subdivision  
27 thereof, including, but not limited to, an officer of a court

1 of this state, may not be prohibited or in any way be  
2 restricted from sending, receiving, or maintaining information  
3 relating to the immigration status, lawful or unlawful, of any  
4 individual or exchanging that information with any other  
5 federal, state, or local governmental entity for any of the  
6 following official purposes:

7 "(1) Determining the eligibility for any public  
8 benefit, service, or license provided by any state, local, or  
9 other political subdivision of this state.

10 "(2) Verifying any claim of residence or domicile if  
11 determination of residence or domicile is required under the  
12 laws of this state or a judicial order issued pursuant to a  
13 civil or criminal proceeding of this state.

14 "(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. §  
15 1644.

16 "(d) A person who is a United States citizen or an  
17 alien who is lawfully present in the United States and is a  
18 resident of this state may file a petition with the  
19 appropriate local district attorney or the Attorney General  
20 requesting that he or she bring an action in circuit court to  
21 challenge any official or head of an agency of this state or  
22 political subdivision thereof, including, but not limited to,  
23 an officer of a court in this state, that adopts or implements  
24 a policy or practice that limits or restricts the enforcement  
25 of this chapter to less than the full extent permitted by this  
26 chapter. If the district attorney or the Attorney General  
27 elects to not bring an action, he or she shall publicly state

1 in writing the justification for such a decision. A district  
2 attorney or the Attorney General must either bring an action  
3 or publicly state why no action was brought within 90 days of  
4 receiving a petition. The petition must be signed under oath  
5 and under penalty of perjury and must allege with specificity  
6 any alleged violations. Such person shall have actual  
7 knowledge that any official or head of an agency of this state  
8 or political subdivision thereof, including, but not limited  
9 to, an officer of a court in this state, has adopted or  
10 implemented a policy or practice that limits or restricts the  
11 enforcement of this chapter to less than the full extent  
12 permitted by this chapter. The district attorney or the  
13 Attorney General shall give the official or head of an agency,  
14 including, but not limited to, an officer of a court in this  
15 state, 30 days' notice of his or her intent to file such an  
16 action. If there is a judicial finding that an official or  
17 head of an agency, including, but not limited to, an officer  
18 of a court in this state, has violated this section, the court  
19 shall order that the officer, official, or head of an agency  
20 pay a civil penalty of not less than one thousand dollars  
21 (\$1,000) and not more than five thousand dollars (\$5,000) for  
22 each day that the policy or practice has remained in effect  
23 after the filing of an action pursuant to this section.

24 "(e) A court shall collect the civil penalty  
25 prescribed in subsection (d) and remit one half of the civil  
26 penalty to the Alabama Department of Homeland Security and the

1 second half shall be remitted to the Department of Public  
2 Safety.

3 "(f) Every person working for the State of Alabama  
4 or a political subdivision thereof, including, but not limited  
5 to, a law enforcement agency in the State of Alabama or a  
6 political subdivision thereof, shall have a duty to report  
7 violations of this section of which the person has knowledge.  
8 ~~Failure to report any violation of this section when there is~~  
9 ~~reasonable cause to believe that this section is being~~  
10 ~~violated is~~ Any person who willfully fails to report any  
11 violation of this section when the person has knowledge that  
12 this section is being violated shall be guilty of obstructing  
13 governmental operations as defined in Section 13A-10-2, and  
14 ~~shall be punishable pursuant to state law.~~

15 "(g) For the purposes of this section, the term  
16 official or head of an agency of this state shall not include  
17 a law enforcement officer or ~~other~~ personnel employed in a  
18 jail who is acting within the line and scope of his or her  
19 duty, except for a sheriff or a chief of police and the head  
20 of any law enforcement agency.

21 "(h) For the purposes of this section, the term  
22 "officer of the court" shall not include any licensed attorney  
23 engaged in the representation of his or her client in legal  
24 matters.

25 "§31-13-7.

26 "(a) As used in this section, the following terms  
27 have the following meanings:



1           "(1) EMERGENCY MEDICAL CONDITION. The same meaning  
2 as provided in 42 U.S.C. § 1396b(v) (3).

3           "(2) FEDERAL PUBLIC BENEFITS. The same meaning as  
4 provided in 8 U.S.C. § 1611.

5           "(3) STATE OR LOCAL PUBLIC BENEFITS. The same  
6 meaning as provided in 8 U.S.C. § 1621.

7           "(b) An alien who is not lawfully present in the  
8 United States and who is not defined as an alien eligible for  
9 public benefits under 8 U.S.C. § 1621(a) or 8 U.S.C. § 1641  
10 shall not receive any state or local public benefits.

11           "(c) Except as otherwise provided in subsection (e)  
12 or where exempted by federal law, commencing on September 1,  
13 2011, each agency or political subdivision of the state that  
14 both funds and administers a state or local public benefit  
15 program shall verify with the federal government the lawful  
16 presence in the United States of each alien who applies for  
17 state or local public benefits, pursuant to 8 U.S.C. §§  
18 1373(c), 1621, and 1625.

19           "(d) An agency of this state or a county, city,  
20 town, or other political subdivision of this state may not  
21 consider race, color, or national origin in the enforcement of  
22 this section.

23           "(e) Verification of lawful presence in the United  
24 States shall not be required for any of the following:

25           "(1) For primary or secondary school education, and  
26 state or local public benefits that are listed in 8 U.S.C. §  
27 1621(b).

1           "(2) For obtaining health care items and services  
2 that are necessary for the treatment of an emergency medical  
3 condition of the person involved and are not related to an  
4 organ transplant procedure.

5           "(3) For short term, noncash, in kind emergency  
6 disaster relief.

7           "(4) For public health assistance for immunizations  
8 with respect to immunizable diseases, for the Special  
9 Supplemental Nutrition Program for Women, Infants, and  
10 Children, and for testing and treatment of symptoms of  
11 communicable diseases, whether or not such symptoms are caused  
12 by a communicable disease.

13           "(5) For programs, services, or assistance, such as  
14 soup kitchens, crisis counseling and intervention, and  
15 short-term shelter specified by federal law or regulation that  
16 satisfy all of the following:

17           "a. Deliver in-kind services at the community level,  
18 including services through public or private nonprofit  
19 agencies.

20           "b. Do not condition the provision of assistance,  
21 the amount of assistance provided, or the cost of assistance  
22 provided on the income or resources of the individual  
23 recipient.

24           "c. Are necessary for the protection of life or  
25 safety.

26           "(6) For prenatal care.

1           "(7) For child protective services and adult  
2 protective services and domestic violence services workers.

3           "(8) For the subsequent issuance or renewal of any  
4 commercial or professional license the issuance of which is  
5 considered a state or local public benefit, although, for the  
6 first such license issued after the effective date of the act  
7 adding this subdivision, the verification of lawful presence  
8 in the United States shall be required as a condition of  
9 issuance.

10           "Notwithstanding the preceding sentence, a person  
11 who is lawfully present in the United States because he or she  
12 either has a foreign passport with an unexpired United States  
13 Visa or a foreign passport issued by a visa waiver country, or  
14 a person who has been issued a driver's license or nondriver's  
15 identification card bearing a foreign national designation,  
16 shall be required to verify his or her lawful presence in the  
17 United States as a condition of issuance of any and all  
18 subsequent issuances or renewals of a commercial or  
19 professional license the issuance of which is considered a  
20 state or local public benefit."

21           "(f) No official of this state or political  
22 subdivision of this state shall attempt to independently make  
23 a final determination of whether an alien is lawfully present  
24 in the United States. An alien's lawful presence in the United  
25 States shall be verified by the federal government pursuant to  
26 8 U.S.C. § 1373(c).

1           "(g) Any United States citizen applying for state or  
2 local public benefits, except those benefits described in  
3 subsection (e), shall sign a declaration that he or she is a  
4 United States citizen.

5           "(h) Any person who knowingly makes a false,  
6 fictitious, or fraudulent statement or representation in a  
7 declaration executed pursuant to subsection (g) shall be  
8 guilty of perjury in the second degree pursuant to Section  
9 13A-10-102. Each time that a person receives a public benefit  
10 based upon such a statement or representation shall constitute  
11 a separate violation of Section 13A-10-102.

12           "(i) The verification that an alien seeking state or  
13 local public benefits is an alien lawfully present in the  
14 United States shall be made through the Systematic Alien  
15 Verification for Entitlements (SAVE) program, operated by the  
16 United States Department of Homeland Security. If for any  
17 reason the verification of an alien's lawful presence through  
18 the SAVE program is delayed or inconclusive, the alien shall  
19 be eligible for state or local public benefits in the interim  
20 period if the alien signs a declaration that he or she is an  
21 alien lawfully present in the United States. The penalties  
22 under subsection (h) shall apply to any false, fictitious, or  
23 fraudulent statement or representation made in a declaration.

24           "(j) Each state agency or department that  
25 administers a program that provides state or local public  
26 benefits shall provide an annual report with respect to its  
27 compliance with this section to the Government Affairs

1 Committee of the Senate and the Government Operations  
2 Committee of the House of Representatives, or any successor  
3 committees.

4 "(k) Errors and significant delays resulting from  
5 use of the SAVE program shall be reported to the United States  
6 Department of Homeland Security and to the Alabama Department  
7 of Homeland Security to assist the federal government in  
8 ensuring that the application of the SAVE program is not  
9 wrongfully denying benefits to aliens lawfully present in the  
10 United States.

11 "(l) For the purposes of administering the Alabama  
12 Child Health Insurance Program, verification and documentation  
13 of lawful presence through any alternative means expressly  
14 authorized by federal law shall satisfy the requirements of  
15 this section.

16 "§31-13-8.

17 "An alien who is not lawfully present in the United  
18 States shall not be permitted to enroll in or attend any  
19 public postsecondary education institution in this state. ~~An~~  
20 ~~alien attending any public postsecondary institution in this~~  
21 ~~state must either possess lawful permanent residence or an~~  
22 ~~appropriate nonimmigrant visa under 8 U.S.C. § 1101, et seq.~~  
23 For the purposes of this section, a public postsecondary  
24 education institution officer may seek federal verification of  
25 an alien's immigration status with the federal government  
26 pursuant to 8 U.S.C. § 1373(c). A public postsecondary  
27 education institution officer or official shall not attempt to

1 independently make a final determination of whether an alien  
2 is lawfully present in the United States. Except as otherwise  
3 provided by law, an alien who is not lawfully present in the  
4 United States shall not be eligible for any postsecondary  
5 education benefit, including, but not limited to,  
6 scholarships, grants, or financial aid.

7 "§31-13-9.

8 "(a) As a condition for the award of any contract,  
9 grant, or incentive by the state, any political subdivision  
10 thereof, or any state-funded entity to a business entity or  
11 employer that employs one or more employees, the business  
12 entity or employer shall not knowingly employ, hire for  
13 employment, or continue to employ an unauthorized alien within  
14 the State of Alabama ~~and shall attest to such, by sworn~~  
15 ~~affidavit signed before a notary.~~

16 "(b) As a condition for the award of any contract,  
17 grant, or incentive by the state, any political subdivision  
18 thereof, or any state-funded entity to a business entity or  
19 employer that employs one or more employees, the business  
20 entity or employer shall provide documentation establishing  
21 that the business entity or employer is enrolled in the  
22 E-Verify program. During the performance of the contract, the  
23 business entity or employer shall participate in the E-Verify  
24 program and shall verify every employee that is required to be  
25 verified according to the applicable federal rules and  
26 regulations.

1           "(c) ~~No~~ Any subcontractor on a project paid for by  
2 contract, grant, or incentive by the state, any political  
3 subdivision thereof, or any state-funded entity shall not  
4 knowingly employ, hire for employment, or continue to employ  
5 an unauthorized alien within the State of Alabama and ~~shall~~  
6 ~~attest to such by sworn affidavit signed before a notary. The~~  
7 ~~subcontractor~~ shall also enroll in the E-Verify program prior  
8 to performing any work on the project. ~~and shall attach to the~~  
9 ~~sworn affidavit documentation establishing that the~~  
10 ~~subcontractor is enrolled in the E-Verify program~~ Furthermore,  
11 during the performance of the contract, the subcontractor  
12 shall participate in the E-Verify program and shall verify  
13 every employee that is required to be verified according to  
14 the applicable federal rules and regulations.

15           "(d) A contractor of any tier shall not be liable  
16 under this section when such contractor contracts with its  
17 direct subcontractor who violates subsection (c), ~~if the~~  
18 ~~contractor receives a sworn affidavit from the subcontractor~~  
19 ~~signed before a notary attesting to the fact that the direct~~  
20 ~~subcontractor, in good faith, has complied with subsection (c)~~  
21 ~~with respect to verifying each of its employee's eligibility~~  
22 ~~for employment, unless the contractor knows the direct~~  
23 ~~subcontractor is violating subsection (c).~~ unless it is shown  
24 by clear and convincing evidence that the contractor had  
25 actual knowledge that the direct subcontractor was in  
26 violation of subsection (c).

1           "(e) (1) Upon a finding by a court of competent  
2 jurisdiction of a ~~the~~ first violation of subsection (a) by any  
3 business entity or employer, including a subcontractor:  
4 ~~awarded a contract by the state, any political subdivision~~  
5 ~~thereof, or any state-funded entity the business entity or~~  
6 ~~employer shall be deemed in breach of contract and the state,~~  
7 ~~political subdivision thereof, or state-funded entity may~~  
8 ~~terminate the contract after providing notice and an~~  
9 ~~opportunity to be heard. Upon application by the state entity,~~  
10 ~~political subdivision thereof, or state-funded entity, the~~  
11 ~~Attorney General may bring an action to suspend the business~~  
12 ~~licenses and permits of the business entity or employer for a~~  
13 ~~period not to exceed 60 days, according to the procedures~~  
14 ~~described in Section 31-13-15. The court shall order the~~  
15 ~~business entity or employer to file a signed, sworn affidavit~~  
16 ~~with the local district attorney within three days after the~~  
17 ~~order is issued by the court stating that the business entity~~  
18 ~~or employer has terminated the employment of every~~  
19 ~~unauthorized alien and the business entity or employer will~~  
20 ~~not knowingly or intentionally employ an unauthorized alien in~~  
21 ~~this state. Before a business license or permit that has been~~  
22 ~~suspended under this subsection is reinstated, a legal~~  
23 ~~representative of the business entity or employer shall submit~~  
24 ~~to the court a signed, sworn affidavit stating that the~~  
25 ~~business entity or employer is in compliance with the~~  
26 ~~provisions of this chapter and a copy of the memorandum of~~



1 ~~understanding issued to the business entity or employer at the~~  
2 ~~time of enrollment in E-Verify.~~

3 "a. The business entity or employer shall be deemed  
4 in breach of contract and the state, political subdivision  
5 thereof, or state-funded entity may terminate the contract  
6 after providing notice and an opportunity to be heard.

7 "b. The court shall do all of the following:

8 "1. Order the business entity or employer to  
9 terminate the employment of every unauthorized alien.

10 "2. Subject the business entity or employer to a  
11 three-year probationary period throughout the state. During  
12 the probationary period, the business entity or employer shall  
13 file quarterly reports with the appropriate local district  
14 attorney of each new employee who is hired by the business  
15 entity or employer in the state.

16 "3. Order the business entity or employer to file a  
17 signed, sworn affidavit with the appropriate local district  
18 attorney within three days after the order is issued by the  
19 court stating that the business entity or employer has  
20 terminated the employment of every unauthorized alien and the  
21 business entity or employer will not knowingly or  
22 intentionally employ an unauthorized alien in this state.

23 "c.1. The court shall also direct the applicable  
24 state, county, or municipal governing bodies to suspend the  
25 business licenses, permits, articles of incorporation,  
26 articles of organization, or any other authorizing document,  
27 if such exist, of the business entity or employer for a period

1 not to exceed 60 days specific to the location where the  
2 unauthorized alien performed work unless the court determines  
3 that a suspension of such licenses, permits, or authorizing  
4 document is not in the best interest of the public.

5 "2. In making such a determination, the court shall  
6 consider the following factors:

7 "(i) The number of unauthorized aliens employed by  
8 the business entity or employer.

9 "(ii) Any prior misconduct by the business entity or  
10 employer.

11 "(iii) Whether the business entity or employer made  
12 good faith efforts to comply with any applicable requirements.

13 "(iv) The duration of the violation.

14 "(v) The role of the directors, officers, or  
15 principals of the business entity or employer in the  
16 violation.

17 "(vi) The impact a suspension of business licenses,  
18 permits, or other authorizing document would have on the  
19 health or safety of the public.

20 "3. Should the court determine that a suspension of  
21 a business license, permit, or other authorizing document is  
22 not in the best interest of the public, the court shall enter  
23 a written opinion setting forth the grounds for its decision.

24 "4. Before a business license, permit, or other  
25 authorizing document that has been suspended under this  
26 paragraph is reinstated, a legal representative of the  
27 business entity or employer shall submit to the court a

1 signed, sworn affidavit stating that the business entity or  
2 employer is in compliance with the provisions of this  
3 subdivision and a copy of the Memorandum of Understanding  
4 issued to the business entity or employer at the time of  
5 enrollment in E-Verify.

6 "5. The suspension of a business license, permit, or  
7 other authorizing document under this paragraph shall  
8 terminate one business day after a legal representative of the  
9 business entity or employer submits to the court a signed,  
10 sworn affidavit stating that the business entity or employer  
11 is in compliance with the provisions of this subdivision.

12 "(2) Upon a finding by a court of competent  
13 jurisdiction of a second ~~or subsequent~~ violation of subsection  
14 (a) by ~~any~~ a business entity or employer, including a  
15 subcontractor, awarded a contract by the state, any political  
16 subdivision thereof, or any state-funded entity that occurs  
17 within five years of a finding by a court of competent  
18 jurisdiction of a first violation by the business entity or  
19 employer: ~~the business entity or employer shall be deemed in~~  
20 ~~breach of contract and the state, any political subdivision~~  
21 ~~thereof, or any state-funded entity shall terminate the~~  
22 ~~contract after providing notice and an opportunity to be~~  
23 ~~heard. Upon application by the state entity, political~~  
24 ~~subdivision thereof, or state-funded entity, the Attorney~~  
25 ~~General may bring an action to permanently revoke the business~~  
26 ~~licenses and permits of the business entity or employer~~  
27 ~~according to the procedures described in Section 31-13-15.~~

1           "a. The business entity or employer shall be deemed  
2 in breach of contract and the state, political subdivision  
3 thereof, or state-funded entity shall terminate the contract  
4 after providing notice and an opportunity to be heard.

5           "b. The court shall do all of the following:

6           "1. Order the business entity or employer to  
7 terminate the employment of every unauthorized alien.

8           "2. Subject the business entity or employer to a  
9 five-year probationary period throughout the state. During the  
10 probationary period, the business entity or employer shall  
11 file quarterly reports with the appropriate local district  
12 attorney of each new employee who is hired by the business  
13 entity or employer in the state.

14           "3. Order the business entity or employer to file a  
15 signed, sworn affidavit with the appropriate local district  
16 attorney within three days after the order is issued by the  
17 court stating that the business entity or employer has  
18 terminated the employment of every unauthorized alien and the  
19 business entity or employer will not knowingly or  
20 intentionally employ an unauthorized alien in this state.

21           "c.1. The court shall also direct the applicable  
22 state, county, or municipal governing bodies to suspend the  
23 business licenses, permits, articles of incorporation,  
24 articles of organization, or any other authorizing document,  
25 if such exist, of the business entity or employer for a period  
26 not to exceed 120 days specific to the location where the  
27 unauthorized alien performed work unless the court determines

1 that a suspension of such licenses, permits, or authorizing  
2 document is not in the best interest of the public.

3 "2. In making such a determination, the court shall  
4 consider the following factors:

5 "(i) The number of unauthorized aliens employed by  
6 the business entity or employer.

7 "(ii) Any prior misconduct by the business entity or  
8 employer.

9 "(iii) Whether the business entity or employer made  
10 good faith efforts to comply with any applicable requirements.

11 "(iv) The duration of the violation.

12 "(v) The role of the directors, officers, or  
13 principals of the business entity or employer in the  
14 violation.

15 "(vi) The impact a suspension of business licenses,  
16 permits, or other authorizing document would have on the  
17 health or safety of the public.

18 "3. Should the court determine that a suspension of  
19 a business license, permit, or other authorizing document is  
20 not in the best interest of the public, the court shall enter  
21 a written opinion setting forth the grounds for its decision.

22 "4. Before a business license, permit, or other  
23 authorizing document that has been suspended under this  
24 paragraph is reinstated, a legal representative of the  
25 business entity or employer shall submit to the court a  
26 signed, sworn affidavit stating that the business entity or  
27 employer is in compliance with the provisions of this

1 subdivision and a copy of the Memorandum of Understanding  
2 issued to the business entity or employer at the time of  
3 enrollment in E-Verify.

4 "(3) Upon a finding by a court of competent  
5 jurisdiction of a third or subsequent violation of subsection  
6 (a) by a business entity or employer, including a  
7 subcontractor, awarded a contract by the state, any political  
8 subdivision thereof, or any state-funded entity that occurs  
9 within five years of a finding by a court of competent  
10 jurisdiction of a second or subsequent violation by the  
11 business entity or employer:

12 "a. The business entity or employer shall be deemed  
13 in breach of contract and the state, political subdivision  
14 thereof, or state-funded entity shall terminate the contract  
15 after providing notice and an opportunity to be heard.

16 "b. The court shall do all of the following:

17 "1. Order the business entity or employer to  
18 terminate the employment of every unauthorized alien.

19 "2. Subject the business entity or employer to a  
20 seven-year probationary period throughout the state. During  
21 the probationary period, the business entity or employer shall  
22 file quarterly reports with the appropriate local district  
23 attorney of each new employee who is hired by the business  
24 entity or employer in the state.

25 "3. Order the business entity or employer to file a  
26 signed, sworn affidavit with the appropriate local district  
27 attorney within three days after the order is issued by the

1 court stating that the business entity or employer has  
2 terminated the employment of every unauthorized alien and the  
3 business entity or employer will not knowingly or  
4 intentionally employ an unauthorized alien in this state.

5 "c.1. The court shall also direct the applicable  
6 state, county, or municipal governing bodies to permanently  
7 suspend the business licenses, permits, articles of  
8 incorporation, articles of organization, or any other  
9 authorizing document, if such exist, unless the court  
10 determines that a suspension of such licenses, permits, or  
11 authorizing document is not in the best interest of the  
12 public.

13 "2. In making such a determination, the court shall  
14 consider the following factors:

15 "(i) The number of unauthorized aliens employed by  
16 the business entity or employer.

17 "(ii) Any prior misconduct by the business entity or  
18 employer.

19 "(iii) Whether the business entity or employer made  
20 good faith efforts to comply with any applicable requirements.

21 "(iv) The duration of the violation.

22 "(v) The role of the directors, officers, or  
23 principals of the business entity or employer in the  
24 violation.

25 "(vi) The impact a suspension of business licenses,  
26 permits, or other authorizing document would have on the  
27 health or safety of the public.

1           "3. Should the court determine that a suspension of  
2 a business license, permit, or other authorizing document is  
3 not in the best interest of the public, the court shall enter  
4 a written opinion setting forth the grounds for its decision  
5 and shall, at a minimum, suspend the business licenses,  
6 permits, or other authorizing document for a period of not  
7 less than one year.

8           "4. Before a business license, permit, or other  
9 authorizing document that has been suspended under this  
10 paragraph is reinstated, a legal representative of the  
11 business entity or employer shall submit to the court a  
12 signed, sworn affidavit stating that the business entity or  
13 employer is in compliance with the provisions of this  
14 subdivision and a copy of the Memorandum of Understanding  
15 issued to the business entity or employer at the time of  
16 enrollment in E-Verify.

17           ~~"(f) (1) Upon the first violation of subsection (c)~~  
18 ~~by a subcontractor, the state or political subdivision thereof~~  
19 ~~may bar the subcontractor from doing business with the state,~~  
20 ~~any political subdivision thereof, any state-funded entity, or~~  
21 ~~with any contractor who contracts with the state, any~~  
22 ~~political subdivision thereof, or any state-funded entity~~  
23 ~~after providing notice and an opportunity to be heard. Upon~~  
24 ~~application by the state entity or political subdivision~~  
25 ~~thereof, or state-funded entity, the Attorney General may~~  
26 ~~bring an action to suspend the business licenses and permits~~  
27 ~~of the subcontractor for a period not to exceed 60 days,~~



1 according to the procedures described in Section 31-13-15. The  
2 court shall order the subcontractor to file a signed, sworn  
3 affidavit with the local district attorney within three days  
4 after the order is issued by the court stating that the  
5 subcontractor has terminated the employment of every  
6 unauthorized alien and the subcontractor will not knowingly or  
7 intentionally employ an unauthorized alien in this state.  
8 Before a business license or permit that has been suspended  
9 under this subsection is reinstated, a legal representative of  
10 the subcontractor shall submit to the court a signed, sworn  
11 affidavit stating that the subcontractor is in compliance with  
12 the provisions of this chapter and a copy of the memorandum of  
13 understanding issued to the subcontractor at the time of  
14 enrollment in E-Verify.

15           "~~(2)~~ Upon a second or subsequent violation of  
16 subsection (c) by a subcontractor and upon application by the  
17 state entity or political subdivision thereof, or state-funded  
18 entity, the Attorney General may bring an action to  
19 permanently suspend the business licenses of the business  
20 entity or employer according to the procedures described in  
21 Section 31-13-15. The determination of a violation shall be  
22 according to the procedures described in Section 31-13-15.

23           "~~(g)~~ (f) A business entity or employer that complies  
24 with subsection (b) shall not be found to be in violation of  
25 subsection (a). A subcontractor that is enrolled in the  
26 E-Verify program during the full period of performance of the

1 subcontract shall not be found to be in violation of  
2 subsection (c).

3 ~~"(h)(g)~~ The Secretary of State shall adopt rules to  
4 administer this section and shall report any rules adopted to  
5 the Legislature.

6 ~~"(i)(h)~~ Compliance with this section may be verified  
7 by the ~~state authorities or law enforcement~~ contracting  
8 authority or the Attorney General at any time to ensure a  
9 contractual agreement as provided for in this section is being  
10 met.

11 ~~"(j) The suspension of a business license or permit~~  
12 ~~under subsection (e)(1) and (f)(1) shall terminate one~~  
13 ~~business day after a legal representative of the business~~  
14 ~~entity, employer, or subcontractor submits a signed, sworn~~  
15 ~~affidavit stating that the business entity, employer, or~~  
16 ~~subcontractor is in compliance with this chapter to the court.~~

17 (i) Anything to the contrary notwithstanding, this  
18 section shall not apply to agreements by the state, any  
19 political subdivision thereof, or any state-funded entity  
20 relating to debt obligations by such entities.

21 "§31-13-10.

22 "(a) In addition to any violation of federal law, a  
23 person is guilty of willful failure to complete or carry an  
24 alien registration document if the person is in violation of 8  
25 U.S.C. § 1304(e) or 8 U.S.C. § 1306(a), and the person is an  
26 alien unlawfully present in the United States.

1           "(b) In the enforcement of this section, an alien's  
2 immigration status shall be determined by verification of the  
3 alien's immigration status with the federal government  
4 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
5 shall not attempt to independently make a final determination  
6 of whether an alien is lawfully present in the United States.

7           "(c) A law enforcement official or agency of this  
8 state or a county, city, or other political subdivision of  
9 this state may not consider race, color, or national origin in  
10 the enforcement of this section except to the extent permitted  
11 by the United States Constitution and the Constitution of  
12 Alabama of 1901.

13           "(d) This section does not apply to a person who  
14 maintains authorization from the federal government to be  
15 present in the United States.

16           "(e) Any official record that relates to the  
17 immigration status of a person is admissible in any court of  
18 this state without further foundation or testimony from a  
19 custodian of records ~~if the record is certified as authentic~~  
20 ~~by the federal government agency that is responsible for~~  
21 ~~maintaining the record.~~ A verification of an alien's  
22 immigration status received from the federal government  
23 pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that  
24 alien's status. A court of this state shall consider only the  
25 federal government's verification in determining whether an  
26 alien is lawfully present in the United States.

1           "(f) An alien unlawfully present in the United  
2 States who is in violation of this section shall be guilty of  
3 a Class C misdemeanor ~~and subject to a fine of not more than~~  
4 ~~one hundred dollars (\$100) and not more than 30 days in jail.~~

5           "(g) A court shall collect the assessments  
6 prescribed in subsection (f) and remit 50 percent of the  
7 assessments to the general fund of the local government where  
8 the person was apprehended to be earmarked for law enforcement  
9 purposes, 25 percent of the assessments to the Alabama  
10 Department of Homeland Security, and 25 percent of the  
11 assessments to the Department of Public Safety.

12           "§31-13-11.

13           "(a) It is unlawful for a person who is an  
14 unauthorized alien to knowingly apply for work, solicit work  
15 in a public or private place, or perform work as an employee  
16 or independent contractor in this state.

17           "(b) In the enforcement of this section, an alien's  
18 immigration status shall be determined by verification of the  
19 alien's immigration status with the federal government  
20 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
21 shall not attempt to independently make a final determination  
22 on whether an alien is authorized to work in the United  
23 States.

24           "(c) A law enforcement official or agency of this  
25 state or a county, city, or other political subdivision of  
26 this state may not consider race, color, or national origin in  
27 the enforcement of this section except to the extent permitted

1 by the United States Constitution and the Constitution of  
2 Alabama of 1901.

3 "(d) This section does not apply to a person who  
4 maintains authorization from the federal government to be  
5 employed in the United States.

6 "(e) Any official record that relates to the  
7 employment authorization of a person is admissible in any  
8 court of this state without further foundation or testimony  
9 from a custodian of records ~~if the record is certified as~~  
10 ~~authentic by the federal government agency that is responsible~~  
11 ~~for maintaining the record.~~ A verification of an alien's  
12 immigration status received from the federal government  
13 pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that  
14 alien's status. A court of this state shall consider only the  
15 federal government's verification in determining whether a  
16 person is an unauthorized alien.

17 "(f) It is unlawful for an occupant of a motor  
18 vehicle that is stopped on a street, roadway, or highway to  
19 attempt to hire or hire and pick up passengers for work at a  
20 different location if the motor vehicle blocks or impedes the  
21 normal movement of traffic.

22 "(g) It is unlawful for a person to enter a motor  
23 vehicle that is stopped on a street, roadway or highway in  
24 order to be hired by an occupant of the motor vehicle and to  
25 be transported to work at a different location if the motor  
26 vehicle blocks or impedes the normal movement of traffic.

1           "(h) A person who is in violation of this section  
2 shall be guilty of a Class C misdemeanor ~~and subject to a fine~~  
3 ~~of not more than five hundred dollars (\$500).~~

4           "(i) A court shall collect the assessments  
5 prescribed in subsection (h) and remit 50 percent of the  
6 assessments to the general fund of the local government where  
7 the person was apprehended to be earmarked for law enforcement  
8 purposes, 25 percent of the assessments to the Alabama  
9 Department of Homeland Security, and 25 percent of the  
10 assessments to the Department of Public Safety.

11           "(j) The terms of this section shall be interpreted  
12 consistently with 8 U.S.C. § 1324a and any applicable federal  
13 rules and regulations.

14           "§31-13-12.

15           "(a) Upon the issuance of any traffic citation or  
16 upon any lawful stop, detention, or arrest made by a state,  
17 county, or municipal law enforcement officer of this state in  
18 the enforcement of any state law or ordinance of any political  
19 subdivision thereof, where reasonable suspicion exists that  
20 the person that is lawfully arrested or is issued a traffic  
21 citation is an alien who is unlawfully present in the United  
22 States, or where reasonable suspicion exists that a person in  
23 the same automobile as the person who was lawfully arrested or  
24 issued a traffic citation is an alien who is unlawfully  
25 present in the United States, a reasonable attempt shall be  
26 made, when practicable, to determine the citizenship and  
27 immigration status of the person, except if the determination

1 may hinder or obstruct an investigation. Such determination  
2 shall be made by contacting the federal government pursuant to  
3 8 U.S.C. § 1373(c) and relying upon any verification provided  
4 by the federal government.

5 "(b) Any alien who is arrested and booked into  
6 custody shall have his or her immigration status determined  
7 pursuant to 8 U.S.C. § 1373(c). The alien's immigration status  
8 shall be verified by contacting the federal government  
9 pursuant to 8 U.S.C. § 1373(c) ~~within 24~~ as soon as reasonably  
10 possible, but not later than 48 hours ~~of~~ after the time of the  
11 alien's arrest. If for any reason federal verification  
12 pursuant to 8 U.S.C. § 1373(c) is delayed beyond the time that  
13 the alien would otherwise be released from custody, the alien  
14 shall be released from custody.

15 "(c) A law enforcement officer shall not attempt to  
16 independently make a final determination of whether an alien  
17 is lawfully present in the United States. A law enforcement  
18 officer may not consider race, color, or national origin in  
19 implementing the requirements of this section except to the  
20 extent permitted by the United States Constitution or the  
21 Constitution of Alabama of 1901.

22 "(d) A person is presumed to not be an alien who is  
23 unlawfully present in the United States if the person provides  
24 to the law enforcement officer any of the following:

25 "(1) A valid, unexpired Alabama driver's license or  
26 an Alabama driver's license that expired within the then  
27 preceding six months.

1           "(2) A valid, unexpired Alabama nondriver  
2 identification card.

3           "(3) A valid tribal enrollment card or other form of  
4 tribal identification bearing a photograph or other biometric  
5 identifier.

6           "(4) Any valid United States federal or state  
7 government issued identification document bearing a photograph  
8 or other biometric identifier, if issued by an entity that  
9 requires proof of lawful presence in the United States before  
10 issuance.

11           "(5) A foreign passport with an unexpired United  
12 States Visa and a corresponding stamp or notation by the  
13 United States Department of Homeland Security indicating the  
14 bearer's admission to the United States.

15           "(6) A foreign passport issued by a visa waiver  
16 country with the corresponding entry stamp and unexpired  
17 duration of stay annotation or an I-94W form by the United  
18 States Department of Homeland Security indicating the bearer's  
19 admission to the United States.

20           "(7) A valid Uniformed Services Privileges and  
21 Identification Card.

22           "(e) If an alien is determined by the federal  
23 government to be an alien who is unlawfully present in the  
24 United States pursuant to 8 U.S.C. § 1373(c), the law  
25 enforcement agency shall cooperate in the transfer of the  
26 alien to the custody of the federal government, if the federal  
27 government so requests.



1           "§31-13-13.

2           "(a) It shall be unlawful for a person to do any of  
3 the following:

4           "(1) Conceal, harbor, or shield from detection or  
5 attempt to conceal, harbor, or shield from detection or  
6 conspire to conceal, harbor, or shield from detection an alien  
7 ~~from detection~~ in any place in this state, including any  
8 building or any means of transportation, if the person knows  
9 or recklessly disregards the fact that the alien has come to,  
10 has entered, or remains in the United States in violation of  
11 federal law. This subdivision should be interpreted consistent  
12 with 8 U.S.C. § 1324(a)(1)(A).

13           "~~(2) Encourage or induce an alien to come to or~~  
14 ~~reside in this state if the person knows or recklessly~~  
15 ~~disregards the fact that such coming to, entering, or residing~~  
16 ~~in the United States is or will be in violation of federal~~  
17 ~~law.~~

18           "~~(3)~~ (2) Transport, or attempt to transport, or  
19 conspire to transport in this state an alien in furtherance of  
20 the unlawful presence of the alien in the United States,  
21 knowingly, or in reckless disregard of the fact, that the  
22 alien has come to, entered, or remained in the United States  
23 in violation of federal law. Conspiracy to be so transported  
24 shall be a violation of this subdivision.

25           "~~(3) It shall not be a violation of this section for~~  
26 ~~a religious denomination having a bona fide nonprofit~~  
27 ~~religious organization in the United States, or the agents or~~

1 ~~officers of the denomination or organization, to encourage,~~  
2 ~~invite, call, allow, or enable an alien who is present in the~~  
3 ~~United States to perform the vocation of a minister or~~  
4 ~~missionary for the denomination or organization in the United~~  
5 ~~States as a volunteer who is not compensated as an employee,~~  
6 ~~notwithstanding the provision of room, board, travel, medical~~  
7 ~~assistance, and other basic living expenses, provided the~~  
8 ~~minister or missionary has been a member of the denomination~~  
9 ~~for at least one year.~~

10 "(3) Nothing in this section would prevent a church  
11 or church-affiliated organization, or an agent or officer of a  
12 church or church-affiliated organization, from ministering to  
13 or providing material goods or services to all individuals,  
14 regardless of immigration status.

15 ~~"(4) Harbor an alien unlawfully present in the~~  
16 ~~United States by entering into a rental agreement, as defined~~  
17 ~~by Section 35-9A-141, with an alien to provide accommodations,~~  
18 ~~if the person knows or recklessly disregards the fact that the~~  
19 ~~alien is unlawfully present in the United States.~~

20 "(b) Any person violating this section is guilty of  
21 a Class A misdemeanor for each unlawfully present alien, the  
22 illegal presence of which in the United States and the State  
23 of Alabama, he or she is facilitating or is attempting to  
24 facilitate.

25 "(c) A person violating this section is guilty of a  
26 Class C felony when the violation involves ~~10~~ five or more  
27 aliens, the illegal presence of which in the United States and

1 the State of Alabama, he or she is facilitating or is  
2 attempting to facilitate.

3 "(d) Notwithstanding any other law, a law  
4 enforcement agency may securely transport an alien whom the  
5 agency has received verification from the federal government  
6 pursuant to 8 U.S.C. § 1373(c) is unlawfully present in the  
7 United States and who is in the agency's custody to a state  
8 approved facility, to a federal facility in this state, or to  
9 any other point of transfer into federal custody that is  
10 outside the jurisdiction of the law enforcement agency. A law  
11 enforcement agency shall obtain judicial or executive  
12 authorization from the Governor before securely transporting  
13 an alien who is unlawfully present in the United States to a  
14 point of transfer that is outside this state.

15 "(e) Notwithstanding any other law, any person  
16 acting in his or her official capacity as a first responder or  
17 protective services provider may harbor, shelter, move, or  
18 transport an alien unlawfully present in the United States  
19 pursuant to state law.

20 "(f) Any conveyance, including any vessel, vehicle,  
21 or aircraft, that has been or is being used in the commission  
22 of a violation of this section, and the gross proceeds of such  
23 a violation, shall be subject to civil forfeiture under the  
24 procedures of Section 20-2-93.

25 "(g) In the enforcement of this section, an alien's  
26 immigration status shall be determined by verification of the  
27 alien's immigration status with the federal government

1 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
2 shall not attempt to independently make a final determination  
3 of whether an alien is lawfully present in the United States.

4 "(h) Any record that relates to the immigration  
5 status of a person is admissible in any court of this state  
6 without further foundation or testimony from a custodian of  
7 records if the record is certified as authentic by the federal  
8 government agency that is responsible for maintaining the  
9 record. A verification of an alien's immigration status  
10 received from the federal government pursuant to 8 U.S.C. §  
11 1373(c) shall constitute proof of that alien's status. A court  
12 of this state shall consider only the federal government's  
13 verification in determining whether an alien is lawfully  
14 present in the United States.

15 "§31-13-14.

16 "(a) A person commits the crime of dealing in false  
17 identification documents if he or she knowingly ~~reproduces,~~  
18 manufactures, sells, or offers for sale any identification  
19 document which does both of the following:

20 "(1) Simulates, purports to be, or is designed so as  
21 to cause others reasonably to believe it to be an  
22 identification document.

23 "(2) Bears a fictitious name or other false  
24 information.

25 "(b) A person commits the crime of vital records  
26 identity fraud related to birth, death, marriage, and divorce  
27 certificates if he or she does any of the following:

1           "(1) Supplies false information intending that the  
2 information be used to obtain a certified copy of a vital  
3 record.

4           "(2) Makes, counterfeits, alters, amends, or  
5 mutilates any certified copy of a vital record without lawful  
6 authority and with the intent to deceive.

7           "(3) Obtains, possesses, uses, sells, or furnishes,  
8 or attempts to obtain, possess, or furnish to another a  
9 certified copy of a vital record, with the intent to deceive.

10           "(c) (1) Dealing in false identification documents is  
11 a Class C felony.

12           "(2) Vital records identity fraud is a Class C  
13 felony.

14           "(d) This section shall not apply to any of the  
15 following:

16           "(1) A person less than 21 years of age who uses the  
17 identification document of another person to acquire an  
18 alcoholic beverage.

19           "(2) A person less than 19 years of age who uses the  
20 identification documents of another person to acquire any of  
21 the following:

22           "a. Cigarettes or tobacco products.

23           "b. A periodical, videotape, or other communication  
24 medium that contains or depicts nudity.

25           "c. Admittance to a performance, live or film, that  
26 prohibits the attendance of the person based on age.

1            "d. An item that is prohibited by law for use or  
2 consumption by such person.

3            "(e) As used in this section, identification  
4 document means any card, certificate, or document or banking  
5 instrument, including, but not limited to, a credit or debit  
6 card, which identifies or purports to identify the bearer of  
7 such document, whether or not intended for use as  
8 identification, and includes, but is not limited to, documents  
9 purporting to be drivers' licenses, nondriver identification  
10 cards, certified copies of birth, death, marriage, and divorce  
11 certificates, Social Security cards, and employee  
12 identification cards.

13            "(f) For a violation of this section to occur, the  
14 prohibited actions must be taken to intentionally further a  
15 scheme to facilitate an unauthorized alien's employment or  
16 presence in the United States.

17            "~~(f)~~ (g) Any person convicted of dealing in false  
18 identification documents as defined in this section shall be  
19 fined up to one thousand dollars (\$1,000) for every card or  
20 document he or she creates or possesses and be subject to any  
21 and all other state laws that may apply. A court shall collect  
22 the fines prescribed by this subsection and shall remit 50  
23 percent of the fines to the general fund of the local  
24 government that apprehended the person to be earmarked for law  
25 enforcement purposes, 25 percent of the fines to the Alabama  
26 Department of Homeland Security, and 25 percent of the fines  
27 to the Department of Public Safety.

1           "§31-13-15.

2           "(a) No business entity, employer, or public  
3 employer shall knowingly employ, hire for employment, or  
4 continue to employ an unauthorized alien to perform work  
5 within the State of Alabama. Knowingly employ, hire for  
6 employment, or continue to employ an unauthorized alien means  
7 the actions described in 8 U.S.C. § 1324a.

8           "(b) ~~Effective April 1, 2012, every~~ Every business  
9 entity or employer in this state shall enroll in E-Verify and  
10 thereafter, according to the federal statutes and regulations  
11 governing E-Verify, shall verify the employment eligibility of  
12 the employee through E-Verify. A business entity or employer  
13 that uses E-Verify to verify the work authorization of an  
14 employee shall not be deemed to have violated this section  
15 with respect to the employment of that employee.

16           "(c) (1) Upon a finding by a court of competent  
17 jurisdiction of a first violation of subsection (a) by any  
18 business entity or employer:

19           "a. The court shall do all of the following:

20           "1. Order the business entity or employer to  
21 terminate the employment of every unauthorized alien.

22           "2. Subject the business entity or employer to a  
23 three-year probationary period throughout the state. During  
24 the probationary period, the business entity or employer shall  
25 file quarterly reports with the appropriate local district  
26 attorney of each new employee who is hired by the business  
27 entity or employer in the state.

1           "3. Order the business entity or employer to file a  
2 signed, sworn affidavit with the appropriate local district  
3 attorney within three days after the order is issued by the  
4 court stating that the business entity or employer has  
5 terminated the employment of every unauthorized alien and the  
6 business entity or employer will not knowingly or  
7 intentionally employ an unauthorized alien in this state.

8           "b.1. The court shall also direct the applicable  
9 state, county, or municipal governing bodies to suspend the  
10 business licenses, permits, articles of incorporation,  
11 articles of organization, or any other authorizing document,  
12 if such exist, of the business entity or employer for a period  
13 not to exceed 60 days specific to the location where the  
14 unauthorized alien performed work unless the court determines  
15 that a suspension of such licenses, permits, or authorizing  
16 document is not in the best interest of the public.

17           "2. In making such a determination, the court shall  
18 consider the following factors:

19           "(i) The number of unauthorized aliens employed by  
20 the business entity or employer.

21           "(ii) Any prior misconduct by the business entity or  
22 employer.

23           "(iii) Whether the business entity or employer made  
24 good faith efforts to comply with any applicable requirements.

25           "(iv) The duration of the violation.



1           "(v) The role of the directors, officers, or  
2 principals of the business entity or employer in the  
3 violation.

4           "(vi) The impact a suspension of business licenses,  
5 permits, or other authorizing document would have on the  
6 health or safety of the public.

7           "3. Should the court determine that a suspension of  
8 a business license, permit, or other authorizing document is  
9 not in the best interest of the public, the court shall enter  
10 a written opinion setting forth the grounds for its decision.

11           "4. Before a business license, permit, or other  
12 authorizing document that has been suspended under this  
13 paragraph is reinstated, a legal representative of the  
14 business entity or employer shall submit to the court a  
15 signed, sworn affidavit stating that the business entity or  
16 employer is in compliance with this section and a copy of the  
17 Memorandum of Understanding issued to the business entity or  
18 employer at the time of enrollment in E-Verify.

19           "5. The suspension of a business license, permit, or  
20 other authorizing document under this paragraph shall  
21 terminate one business day after a legal representative of the  
22 business entity or employer submits to the court a signed,  
23 sworn affidavit stating that the business entity or employer  
24 is in compliance with this section.

25           ~~"(c) On a finding of a first violation by a court of~~  
26 ~~competent jurisdiction that a business entity or employer~~

1 knowingly violated subsection (a), the court shall do all of  
2 the following:

3 ~~"(1) Order the business entity or employer to~~  
4 ~~terminate the employment of every unauthorized alien.~~

5 ~~"(2) Subject the business entity or employer to a~~  
6 ~~three-year probationary period throughout the state. During~~  
7 ~~the probationary period, the business entity or employer shall~~  
8 ~~file quarterly reports with the local district attorney of~~  
9 ~~each new employee who is hired by the business entity or~~  
10 ~~employer in the state.~~

11 ~~"(3) Order the business entity or employer to file a~~  
12 ~~signed, sworn affidavit with the local district attorney~~  
13 ~~within three days after the order is issued by the court~~  
14 ~~stating that the business entity or employer has terminated~~  
15 ~~the employment of every unauthorized alien and the business~~  
16 ~~entity or employer will not knowingly or intentionally employ~~  
17 ~~an unauthorized alien in this state.~~

18 ~~"(4) Direct the applicable state, county, or~~  
19 ~~municipal governing bodies to suspend the business licenses~~  
20 ~~and permits, if such exist, of the business entity or employer~~  
21 ~~for a period not to exceed 10 business days specific to the~~  
22 ~~business location where the unauthorized alien performed work.~~

23 ~~"(d) (1) Before a business license or permit that has~~  
24 ~~been suspended under subsection (c) is reinstated, a legal~~  
25 ~~representative of the business entity or employer shall submit~~  
26 ~~to the court a signed, sworn affidavit stating that the~~  
27 ~~business entity or employer is in compliance with the~~

1 ~~provisions of this chapter and a copy of the memorandum of~~  
2 ~~understanding issued to the business entity or employer at the~~  
3 ~~time of enrollment in E-Verify.~~

4 ~~"(2) The suspension of a business license or permit~~  
5 ~~under subsection (c) shall terminate one business day after a~~  
6 ~~legal representative of the business entity or employer~~  
7 ~~submits a signed, sworn affidavit stating that the business~~  
8 ~~entity or employer is in compliance with the provisions of~~  
9 ~~this chapter to the court.~~

10 ~~"(d) Upon a finding by a court of competent~~  
11 ~~jurisdiction of a second violation of subsection (a) by a~~  
12 ~~business entity or employer that occurs within five years of a~~  
13 ~~finding by a court of competent jurisdiction of a first~~  
14 ~~violation by the business entity or employer:~~

15 ~~"a. The court shall do all of the following:~~

16 ~~"1. Order the business entity or employer to~~  
17 ~~terminate the employment of every unauthorized alien.~~

18 ~~"2. Subject the business entity or employer to a~~  
19 ~~five-year probationary period throughout the state. During the~~  
20 ~~probationary period, the business entity or employer shall~~  
21 ~~file quarterly reports with the appropriate local district~~  
22 ~~attorney of each new employee who is hired by the business~~  
23 ~~entity or employer in the state.~~

24 ~~"3. Order the business entity or employer to file a~~  
25 ~~signed, sworn affidavit with the appropriate local district~~  
26 ~~attorney within three days after the order is issued by the~~  
27 ~~court stating that the business entity or employer has~~

1 terminated the employment of every unauthorized alien and the  
2 business entity or employer will not knowingly or  
3 intentionally employ an unauthorized alien in this state.

4 "b.1. The court shall also direct the applicable  
5 state, county, or municipal governing bodies to suspend the  
6 business licenses, permits, articles of incorporation,  
7 articles of organization, or any other authorizing document,  
8 if such exist, of the business entity or employer for a period  
9 not to exceed 120 days specific to the location where the  
10 unauthorized alien performed work unless the court determines  
11 that a suspension of such licenses, permits, or authorizing  
12 document is not in the best interest of the public.

13 "2. In making such a determination, the court shall  
14 consider the following factors:

15 "(i) The number of unauthorized aliens employed by  
16 the business entity or employer.

17 "(ii) Any prior misconduct by the business entity or  
18 employer.

19 "(iii) Whether the business entity or employer made  
20 good faith efforts to comply with any applicable requirements.

21 "(iv) The duration of the violation.

22 "(v) The role of the directors, officers, or  
23 principals of the business entity or employer in the  
24 violation.

25 "(vi) The impact a suspension of business licenses,  
26 permits, or other authorizing document would have on the  
27 health or safety of the public.

1           "3. Should the court determine that a suspension of  
2 a business license, permit, or other authorizing document is  
3 not in the best interest of the public, the court shall enter  
4 a written opinion setting forth the grounds for its decision.

5           "4. Before a business license, permit, or other  
6 authorizing document that has been suspended under this  
7 paragraph is reinstated, a legal representative of the  
8 business entity or employer shall submit to the court a  
9 signed, sworn affidavit stating that the business entity or  
10 employer is in compliance with this section and a copy of the  
11 Memorandum of Understanding issued to the business entity or  
12 employer at the time of enrollment in E-Verify.

13           ~~"(e) For a second violation of subsection (a) by a~~  
14 ~~business entity or employer, the court shall direct the~~  
15 ~~applicable state, county, or municipal governing body to~~  
16 ~~permanently revoke all business licenses and permits, if such~~  
17 ~~exist, held by the business entity or employer specific to the~~  
18 ~~business location where the unauthorized alien performed work.~~  
19 ~~On receipt of the order, and notwithstanding any other law,~~  
20 ~~the appropriate agencies shall immediately revoke the licenses~~  
21 ~~and permits held by the business entity or employer.~~

22           "(e) Upon a finding by a court of competent  
23 jurisdiction of a third or subsequent violation of subsection  
24 (a) by a business entity or employer that occurs within five  
25 years of a finding by a court of competent jurisdiction of a  
26 second or subsequent violation by the business entity or  
27 employer:

1           "a. The court shall do all of the following:

2           "1. Order the business entity or employer to  
3 terminate the employment of every unauthorized alien.

4           "2. Subject the business entity or employer to a  
5 seven-year probationary period throughout the state. During  
6 the probationary period, the business entity or employer shall  
7 file quarterly reports with the appropriate local district  
8 attorney of each new employee who is hired by the business  
9 entity or employer in the state.

10          "3. Order the business entity or employer to file a  
11 signed, sworn affidavit with the appropriate local district  
12 attorney within three days after the order is issued by the  
13 court stating that the business entity or employer has  
14 terminated the employment of every unauthorized alien and the  
15 business entity or employer will not knowingly or  
16 intentionally employ an unauthorized alien in this state.

17          "b. The court shall also direct the applicable  
18 state, county, or municipal governing bodies to permanently  
19 suspend the business licenses, permits, articles of  
20 incorporation, articles of organization, or any other  
21 authorizing document, if such exist, unless the court  
22 determines that a suspension of such licenses, permits, or  
23 authorizing document is not in the best interest of the  
24 public.

25          1. In making such a determination, the court shall  
26 consider the following factors:

1           "(i) The number of unauthorized aliens employed by  
2 the business entity or employer.

3           "(ii) Any prior misconduct by the business entity or  
4 employer.

5           "(iii) Whether the business entity or employer made  
6 good faith efforts to comply with any applicable requirements.

7           "(iv) The duration of the violation.

8           "(v) The role of the directors, officers, or  
9 principals of the business entity or employer in the  
10 violation.

11           "(vi) The impact a suspension of business licenses,  
12 permits, or other authorizing document would have on the  
13 health or safety of the public.

14           2. Should the court determine that a suspension of a  
15 business license, permit, or other authorizing document is not  
16 in the best interest of the public, the court shall enter a  
17 written opinion setting forth the grounds for its decision and  
18 shall, at a minimum, suspend the business licenses, permits,  
19 or other authorizing document for a period of not less than  
20 one year.

21           3. Before a business license, permit, or other  
22 authorizing document that has been suspended under this  
23 paragraph is reinstated, a legal representative of the  
24 business entity or employer shall submit to the court a  
25 signed, sworn affidavit stating that the business entity or  
26 employer is in compliance with this section and a copy of the

1 Memorandum of Understanding issued to the business entity or  
2 employer at the time of enrollment in E-Verify.

3 ~~"(f) For a subsequent violation of subsection (a),~~  
4 ~~the court shall direct the applicable governing bodies to~~  
5 ~~forever suspend the business licenses and permits, if such~~  
6 ~~exist, of the business entity or employer throughout the~~  
7 ~~state.~~

8 ~~"(g) (f)~~ This section shall not be construed to deny  
9 any procedural mechanisms or legal defenses included in the  
10 E-Verify program or any other federal work authorization  
11 program. A person or entity that establishes that it has  
12 complied in good faith with the requirements of 8 U.S.C. §  
13 1324a(b) establishes an affirmative defense that the business  
14 entity or employer did not knowingly hire or employ an  
15 unauthorized alien.

16 ~~"(h) (g)~~ In proceedings of the court, the  
17 determination of whether an employee is an unauthorized alien  
18 shall be made by the federal government, pursuant to 8 U.S.C.  
19 § 1373(c). The court shall consider only the federal  
20 government's determination when deciding whether an employee  
21 is an unauthorized alien. The court may take judicial notice  
22 of any verification of an individual's immigration status  
23 previously provided by the federal government and may request  
24 the federal government to provide further automated or  
25 testimonial verification.

26 ~~"(i) (h)~~ Any business entity or employer that  
27 terminates an employee to comply with this section shall not



1 be liable for any claims made against the business entity or  
2 employer by the terminated employee, provided that such  
3 termination is made without regard to the race, ethnicity, or  
4 national origin of the employee and that such termination is  
5 consistent with the anti-discrimination laws of this state and  
6 of the United States.

7 ~~"(j)(i)~~ If any agency of the state or any political  
8 subdivision thereof fails to suspend the business licenses or  
9 permits, if such exist, as a result of a violation of this  
10 section, the agency shall be deemed to have violated  
11 subsection (a) of Section 31-13-5 and shall be subject to the  
12 penalties thereunder.

13 ~~"(k)(j)~~ In addition to the district attorneys of  
14 this state, the Attorney General shall also have authority to  
15 bring a civil complaint in any court of competent jurisdiction  
16 to enforce the requirements of this section.

17 "(1) Any resident of this state may petition the  
18 Attorney General to bring an enforcement action against a  
19 specific business entity or employer by means of a written,  
20 signed petition. A valid petition shall include an allegation  
21 that describes the alleged violator or violators, as well as  
22 the action constituting the violation, and the date and  
23 location where the action occurred. The petition must be  
24 signed under oath and under penalty of perjury and must allege  
25 with specificity any alleged violations.

1           "(2) A petition that alleges a violation on the  
2 basis of national origin, ethnicity, or race shall be deemed  
3 invalid and shall not be acted upon.

4           "(3) The Attorney General shall respond to any  
5 petition under this subsection within 60 days of receiving the  
6 petition, either by filing a civil complaint in a court of  
7 competent jurisdiction or by informing the petitioner in  
8 writing that the Attorney General has determined that filing a  
9 civil complaint is not warranted.

10           "~~(i)~~(k) This section does not apply to the  
11 relationship between a party and the employees of an  
12 independent contractor performing work for the party and does  
13 not apply to casual domestic labor performed within a  
14 household.

15           "~~(m)~~(l) It is an affirmative defense to a violation  
16 of subsection (a) of this section that a business entity or  
17 employer was entrapped.

18           "(1) To claim entrapment, the business entity or  
19 employer must admit by testimony or other evidence the  
20 substantial elements of the violation.

21           "(2) A business entity or employer who asserts an  
22 entrapment defense has the burden of proving by clear and  
23 convincing evidence the following:

24           "a. The idea of committing the violation started  
25 with law enforcement officers or their agents rather than with  
26 the business entity or employer.

1            "b. The law enforcement officers or their agents  
2 urged and induced the business entity or employer to commit  
3 the violation.

4            "c. The business entity or employer was not already  
5 predisposed to commit the violation before the law enforcement  
6 officers or their agents urged and induced the employer to  
7 commit the violation.

8            "~~(n)~~ (m) In addition to actions taken by the state or  
9 political subdivisions thereof, the Attorney General or the  
10 district attorney of the relevant county may bring an action  
11 to enforce the requirements of this section in any ~~county~~  
12 ~~district~~ circuit court of this state wherein the business  
13 entity or employer does business.

14            "~~(o)~~ (n) The terms of this section shall be  
15 interpreted consistently with 8 U.S.C. § 1324a and any  
16 applicable federal rules and regulations.

17            "(o) Compliance with this section may be verified by  
18 the Attorney General at any time to ensure a contractual  
19 agreement as provided for in this section is being met.

20            "§31-13-17.

21            "(a) (1) It shall be ~~a discriminatory~~ an unlawful  
22 employment practice for a business entity or employer to fail  
23 to hire a job applicant who is a United States citizen or an  
24 alien who is authorized to work in the United States as  
25 defined in 8 U.S.C. § 1324a(h) (3) or discharge an employee  
26 working in Alabama who is a United States citizen or an alien  
27 who is authorized to work in the United States as defined in 8

1 U.S.C. § 1324a(h) (3) while retaining or hiring an employee who  
2 the business entity or employer knows, or reasonably should  
3 have known, is an unauthorized alien.

4 "(2) To prevail under this section, the person  
5 seeking to bring an action under this section must demonstrate  
6 that he or she was discharged from employment, or that he or  
7 she applied for employment and was rejected, and that the  
8 discharge or rejection was caused by the hiring or retention  
9 of an unauthorized alien. In addition to proving that the  
10 decision to hire or retain the unauthorized alien was the  
11 proximate cause of the decision to discharge or not to hire,  
12 the person must prove that the employer intended to  
13 discriminate against the person seeking to bring an action  
14 under this section because of the unauthorized alien's status,  
15 and that the unauthorized alien was employed in the same job  
16 or job category that requires equal skill, effort, and  
17 responsibility and which is performed under similar working  
18 conditions as the job or job category held or applied for by  
19 the person seeking to bring an action under this section.

20 "(3) It shall not be an unlawful practice for a  
21 business entity or employer to fail to hire a job applicant  
22 who is a United States citizen or an alien who is authorized  
23 to work in the United States as defined in 8 U.S.C. §  
24 1324a(h) (3) or discharge an employee working in this state who  
25 is a United States citizen or an alien who is authorized to  
26 work in the United States as defined in 8 U.S.C. § 1324a(h) (3)  
27 if the business entity or employer had a legitimate business

1 reason. The plaintiff may not establish, and a court or jury  
2 may not find, that the proffered business reason is  
3 illegitimate where the business reason is one that might  
4 motivate a reasonable employer.

5 "(b) A violation of subsection (a) may be the basis  
6 of a civil action in the state courts of this state. Any  
7 recovery under this subsection shall be limited to  
8 compensatory relief and shall not include any civil or  
9 criminal sanctions against the employer.

10 ~~"(c) The losing party in any civil action shall pay~~  
11 ~~the court costs and reasonable attorneys fees for the~~  
12 ~~prevailing party; however, the losing party shall only pay the~~  
13 ~~attorneys fees of the prevailing party up to the amount paid~~  
14 ~~by the losing party for his or her own attorneys fees.~~

15 ~~"(d) The amount of the attorneys fees spent by each~~  
16 ~~party shall be reported to the court before the verdict is~~  
17 ~~rendered.~~

18 ~~"(e)(c)~~ In proceedings of the court, the  
19 determination of whether an employee is an unauthorized alien  
20 shall be made by the federal government, pursuant to 8 U.S.C.  
21 § 1373(c). The court shall consider only the federal  
22 government's determination when deciding whether an employee  
23 is an unauthorized alien. The court may take judicial notice  
24 of any verification of an individual's immigration status  
25 previously provided by the federal government and may request  
26 the federal government to provide further automated or  
27 testimonial verification.

1           ~~"(d) A person who knowingly files a false or~~  
2 ~~frivolous complaint under this section shall be guilty of a~~  
3 ~~Class C misdemeanor."~~

4           Section 2. Section 32-6-9, Code of Alabama 1975, is  
5 amended to read as follows:

6           "§32-6-9.

7           "(a) Every licensee shall have his or her license in  
8 his or her immediate possession at all times when driving a  
9 motor vehicle and shall display the same, upon demand of a  
10 judge of any court, a peace officer or a state trooper.  
11 However, no person charged with violating this section shall  
12 be convicted if he or she produces in court or the office of  
13 the arresting officer a driver's license theretofore issued to  
14 him or her and valid at the time of his or her arrest.

15           ~~"(b) Notwithstanding Section 32-1-4, if a law~~  
16 ~~officer arrests a person for a violation of this section and~~  
17 ~~the officer is unable to determine by any other means that the~~  
18 ~~person has a valid driver's license, the officer shall~~  
19 ~~transport the person to the nearest or most accessible~~  
20 ~~magistrate.~~

21           ~~"(c)(b) A~~ For every person found in violation of  
22 this section or Section 32-6-1, a reasonable effort shall be  
23 made as soon as possible, but not later than within 48 hours,  
24 to determine the citizenship of the person and if an alien,  
25 whether the alien is lawfully present in the United States by  
26 verification with the federal government pursuant to 8 U.S.C.  
27 § 1373(c). An officer shall not attempt to independently make

1 a final determination of whether an alien is lawfully present  
2 in the United States.

3 ~~"(d) A verification inquiry, pursuant to 8 U.S.C. §~~  
4 ~~1373(c), shall be made within 48 hours to the Law Enforcement~~  
5 ~~Support Center of the United States Department of Homeland~~  
6 ~~Security or other office or agency designated for that purpose~~  
7 ~~by the federal government. If the person is determined to be~~  
8 ~~an alien unlawfully present in the United States, the person~~  
9 ~~shall be considered a flight risk and shall be detained until~~  
10 ~~prosecution or until handed over to federal immigration~~  
11 ~~authorities."~~

12 Section 3. Sections 19, 20, 21, 24, 27, 28, 29, and  
13 30 of Act 2011-535, 2011 Regular Session, now appearing as  
14 Sections 31-13-18, 31-13-19, 31-13-20, 31-13-23, 31-13-26,  
15 31-13-27, 31-13-28, and 31-13-29, Code of Alabama 1975, are  
16 amended to read as follows:

17 "§31-13-18.

18 "(a) When a person is charged with a crime for which  
19 bail is required, or is confined for any period in a state,  
20 county, or municipal jail, a reasonable effort shall be made  
21 to determine if the person is an alien unlawfully present in  
22 the United States by verification with the federal government  
23 pursuant to 8 U.S.C. § 1373(c).

24 "(b) A verification inquiry, pursuant to 8 U.S.C. §  
25 1373(c), shall be made as soon as reasonably possible, but not  
26 later than within 48 hours to the Law Enforcement Support  
27 Center of the United States Department of Homeland Security or

1 other office or agency designated for that purpose by the  
2 federal government. If the person is determined to be an alien  
3 unlawfully present in the United States, the person shall be  
4 considered a flight risk and shall be detained until  
5 prosecution or until handed over to federal immigration  
6 authorities.

7 "§31-13-19.

8 "If an alien who is unlawfully present in the United  
9 States is convicted of a violation of state or local law and  
10 is within 30 days of release ~~or has paid any fine as required~~  
11 ~~by operation of law~~, the agency legally responsible for his or  
12 her custody incarceration at that time shall notify the United  
13 States Bureau of Immigration and Customs Enforcement and the  
14 Alabama Department of Homeland Security, pursuant to 8 U.S.C.  
15 § 1373. The Alabama Department of Homeland Security shall  
16 assist in the coordination of the transfer of the prisoner to  
17 the appropriate federal immigration authorities; however, the  
18 ~~Alabama Department of Corrections agency responsible for his~~  
19 ~~or her incarceration~~ agency legally responsible for his or her  
20 custody at that time shall maintain custody during any  
21 transfer of the individual.

22 "§31-13-20.

23 "If a person is an alien who is unlawfully present  
24 in the United States and is a victim of a criminal act, is the  
25 child of a victim of a criminal act, is a parent or guardian  
26 of a victim of a criminal act who is a minor, is a critical  
27 witness in any prosecution, is the parent or guardian of a



1 critical witness in any prosecution who is a minor, or is the  
2 child of a critical witness in any prosecution of a state or  
3 federal crime, all provisions of this chapter shall be stayed  
4 until all of the related legal proceedings are concluded.  
5 However, the relevant state, county, or local law enforcement  
6 agency shall comply with any request by federal immigration  
7 officers to take custody of the person.

8 "§31-13-23.

9 "(a) The Alabama Department of Homeland Security  
10 shall file ~~a quarterly~~ an annual report to the Legislature on  
11 the progress being made regarding the enforcement of this  
12 chapter and the status of the progress being made in the  
13 effort to reduce the number of illegal aliens in the State of  
14 Alabama. The report shall include, but is not limited to, the  
15 statistics and results from the enforcement of the sections of  
16 this chapter, and suggestions on what can be done including  
17 additional legislation to further assist the federal  
18 government in its efforts to apprehend illegal aliens in the  
19 State of Alabama. ~~At the start of the 2013 fiscal year, the~~  
20 ~~report shall be filed twice a year. At the start of the 2015~~  
21 ~~fiscal year, the report is required annually.~~ This report  
22 shall also be made available to the public and shall be  
23 announced through a press release from the Attorney General's  
24 office.

25 "(b) Upon receipt of a written complaint alleging a  
26 violation of the provisions of this chapter requiring  
27 verification and determination of the status of employees, the

1 Alabama Department of Homeland Security shall have the  
2 authority to request from the business entity or employer that  
3 is the subject of the complaint, proof of enrollment in  
4 E-Verify. The department shall further have the authority to  
5 inspect all records of the business entity which relate to the  
6 requests for verification and determination of status through  
7 E-Verify.

8 "(c) The Alabama Department of Homeland Security  
9 shall operate or maintain a toll free telephone hotline or  
10 website for the purpose of receiving tips from the general  
11 public regarding possible violations of this chapter,  
12 including the unlawful enforcement of this chapter.

13 "§31-13-26.

14 "(a) No court of this state shall enforce the terms  
15 of, or otherwise regard as valid, any contract between a party  
16 and an alien unlawfully present in the United States, if the  
17 party had direct or constructive knowledge that the alien was  
18 unlawfully present in the United States at the time the  
19 contract was entered into, and the performance of the contract  
20 required the alien to remain unlawfully present in the United  
21 States for more than 24 hours after the time the contract was  
22 entered into or performance could not reasonably be expected  
23 to occur without such remaining.

24 "(b) This section shall not apply to a contract for  
25 lodging for one night, a contract for the purchase of food to  
26 be consumed by the alien, a contract for medical services, or

1 a contract for transportation of the alien that is intended to  
2 facilitate the alien's return to his or her country of origin.

3 "(c) This section shall not apply to a contract  
4 authorized by federal law, to a contract entered into prior to  
5 the effective date of the act adding this language, or to a  
6 contract for the appointment or retention of legal counsel in  
7 legal matters.

8 "(d) In proceedings of the court, the determination  
9 of whether an alien is unlawfully present in the United States  
10 shall be made by the federal government, pursuant to 8 U.S.C.  
11 § 1373(c). The court shall consider only the federal  
12 government's determination when deciding whether an alien is  
13 unlawfully present in the United States. The court may take  
14 judicial notice of any verification of an individual's  
15 immigration status previously provided by the federal  
16 government and may request the federal government to provide  
17 further automated or testimonial verification.

18 "§31-13-27.

19 "(a) It is the intent of the Legislature that the  
20 State Department of Education attempt to ascertain the total  
21 annual fiscal impact to the state of providing a free public  
22 education public educational services to those Alabama public  
23 school students who are the children of, or in the custody and  
24 control of, aliens believed to be unlawfully present in the  
25 United States. Under no circumstance does the Legislature  
26 intend to deny anyone the opportunity to receive a free public  
27 education in Alabama's public educational system. Nor does the

1 ~~Legislature intend for the provisions of this section to~~  
2 ~~discourage anyone from accessing a free public education in~~  
3 ~~Alabama's public educational system. to be unlawfully present~~  
4 ~~in the United States. The Legislature does not intend by the~~  
5 ~~provisions of this Act to deny anyone the opportunity to~~  
6 ~~receive public educational services in Alabama, nor does the~~  
7 ~~Legislature intend that the provisions of this Act discourage~~  
8 ~~anyone from attending the public schools in Alabama.~~

9 "(b) The State Department of Education, by January 1  
10 of each year, shall compile a report that calculates the  
11 estimated annual fiscal impact of providing free public  
12 estimated total annual fiscal impact of providing public  
13 educational services to those Alabama public school students  
14 who are the children of, or in the custody and control of,  
15 aliens believed to be unlawfully present in the United States.  
16 In compiling this report, the State Department of Education  
17 shall make its best efforts to accurately determine the fiscal  
18 impact to the state as a whole, as well as on local  
19 educational agencies in particular. Additionally, and on  
20 behalf of the State Department of Education, the State  
21 Superintendent of Education may contract with reputable  
22 scholars, economists, or public research institutions if  
23 necessary to complete the analysis required by this section.

24 ~~"(a) (1) Every public elementary and secondary school~~  
25 ~~in this state, at the time of enrollment in kindergarten or~~  
26 ~~any grade in such school, shall determine whether the student~~  
27 ~~enrolling in public school was born outside the jurisdiction~~

1 of the United States or is the child of an alien not lawfully  
2 present in the United States and qualifies for assignment to  
3 an English as Second Language class or other remedial program.

4 "(2) The public school, when making the  
5 determination required by subdivision (1), shall rely upon  
6 presentation of the student's original birth certificate, or a  
7 certified copy thereof.

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

17 "(4) Notification shall consist of both of the  
18 following:

19 "a. The presentation for inspection, to a school  
20 official designated for such purpose by the school district in  
21 which the child is enrolled, of official documentation  
22 establishing the citizenship and, in the case of an alien, the  
23 immigration status of the student, or alternatively by  
24 submission of a notarized copy of such documentation to such  
25 official.

26 "b. Attestation by the parent, guardian, or legal  
27 custodian, under penalty of perjury, that the document states

1 ~~the true identity of the child. If the student or his or her~~  
2 ~~parent, guardian, or legal representative possesses no such~~  
3 ~~documentation but nevertheless maintains that the student is~~  
4 ~~either a United States citizen or an alien lawfully present in~~  
5 ~~the United States, the parent, guardian, or legal~~  
6 ~~representative of the student may sign a declaration so~~  
7 ~~stating, under penalty of perjury.~~

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

12 ~~"(b) Each school district in this state shall~~  
13 ~~collect and compile data as required by this section.~~

14 ~~"(c) Each school district shall submit to the State~~  
15 ~~Board of Education an annual report listing all data obtained~~  
16 ~~pursuant to this section.~~

17 ~~"(d) (1) The State Board of Education shall compile~~  
18 ~~and submit an annual public report to the Legislature.~~

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

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

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

13           "~~(5)~~ ~~The State Board of Education shall prepare and~~  
14 ~~issue objective baseline criteria for identifying and~~  
15 ~~assessing the other educational impacts on the quality of~~  
16 ~~education provided to students who are citizens of the United~~  
17 ~~States, due to the enrollment of aliens who are not lawfully~~  
18 ~~present in the United States, in addition to the statistical~~  
19 ~~data on citizenship and immigration status and English as a~~  
20 ~~Second Language enrollment required by this chapter. The State~~  
21 ~~Board of Education may contract with reputable scholars and~~  
22 ~~research institutions to identify and validate such criteria.~~  
23 ~~The State Board of Education shall assess such educational~~  
24 ~~impacts and include such assessments in its reports to the~~  
25 ~~Legislature.~~

26           "(e) Public disclosure by any person of information  
27 obtained pursuant to this section which personally identifies

1 any student shall be unlawful, except for purposes permitted  
2 pursuant to 8 U.S.C. §§ 1373 and 1644. Any person intending to  
3 make a public disclosure of information that is classified as  
4 confidential under this section, on the ground that such  
5 disclosure constitutes a use permitted by federal law, shall  
6 first apply to the Attorney General and receive a waiver of  
7 confidentiality from the requirements of this subsection.

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

14 "(g) The State Board of Education shall construe all  
15 provisions of this section in conformity with federal law.

16 "(h) This section shall be enforced without regard  
17 to race, religion, gender, ethnicity, or national origin.

18 "§31-13-28.

19 "(a) Applications for voter registration shall  
20 contain voter eligibility requirements and such information as  
21 is necessary to prevent duplicative voter registrations and  
22 enable the ~~relevant election officer~~ county board of  
23 registrars to assess the eligibility of the applicant and to  
24 administer voter registration, identify the applicant and to  
25 determine the qualifications of the applicant as an elector  
26 and the facts authorizing such person to be registered.  
27 Applications shall contain a statement that the applicant



1 shall be required to provide qualifying identification when  
2 voting.

3 "(b) The Secretary of State shall create a process  
4 for the county ~~election officer~~ board of registrars to check  
5 to indicate whether an applicant has provided with the  
6 application the information necessary to assess the  
7 eligibility of the applicant, including the applicant's United  
8 States citizenship. This section shall be interpreted and  
9 applied in accordance with federal law. No eligible applicant  
10 whose qualifications have been assessed shall be denied  
11 registration.

12 "(c) The county ~~election officer or Secretary of~~  
13 ~~State's office~~ board of registrars shall accept any completed  
14 application for registration, but an applicant shall not be  
15 registered until the applicant has provided satisfactory  
16 evidence of United States citizenship. Satisfactory evidence  
17 of United States citizenship shall be provided in person at  
18 the time of filing the application for registration or by  
19 including, with a mailed registration application, a photocopy  
20 of one of the documents listed as evidence of United States  
21 citizenship in subsection (k). After a person has submitted  
22 satisfactory evidence of citizenship, the county ~~election~~  
23 ~~officer~~ board of registrars shall indicate this information in  
24 the person's permanent voter file.

25 "(d) Any person who is registered in this state on  
26 September 1, 2011, is deemed to have provided satisfactory

1 evidence of United States citizenship and shall not be  
2 required to submit evidence of citizenship.

3 "(e) For purposes of this section, proof of voter  
4 registration from another state is not satisfactory evidence  
5 of United States citizenship.

6 "(f) A registered voter who moves from one residence  
7 to another within the state or who modifies his or her voter  
8 registration records for any other reason shall not be  
9 required to submit evidence of United States citizenship.

10 "(g) If evidence of United States citizenship is  
11 deemed to be unsatisfactory due to an inconsistency between  
12 the document submitted as evidence and the name or sex  
13 provided on the application for registration, such applicant  
14 may sign an affidavit containing both of the following:

15 "(1) Stating the inconsistency or inconsistencies  
16 related to the name or sex, and the reason therefor.

17 "(2) Swearing under oath that, despite the  
18 inconsistency, the applicant is the individual reflected in  
19 the document provided as evidence of citizenship.

20 "(h) There shall be no inconsistency between the  
21 date of birth on the document provided as evidence of  
22 citizenship and the date of birth provided on the application  
23 for registration. If such an affidavit is submitted by the  
24 applicant, the county ~~election officer or Secretary of State~~  
25 board of registrars shall assess the eligibility of the  
26 applicant without regard to any inconsistency stated in the  
27 affidavit.

1           "(i) All documents submitted as evidence of United  
2 States citizenship shall be kept confidential by the county  
3 ~~election officer or the Secretary of State~~ board of registrars  
4 and maintained as provided by record retention laws.

5           "(j) Nothing in this section shall prohibit an  
6 applicant from providing, or the ~~Secretary of State or county~~  
7 ~~election officer~~ county board of registrars from obtaining,  
8 satisfactory evidence of United States citizenship, as  
9 described in this section, at a different time or in a  
10 different manner than an application for registration is  
11 provided, as long as the applicant's eligibility can be  
12 adequately assessed by the ~~Secretary of State or county~~  
13 ~~election officer~~ county board of registrars as required by  
14 this section.

15           "(k) Evidence of United States citizenship shall be  
16 demonstrated by one of the following documents, or a legible  
17 photocopy of one of the following documents:

18           "(1) The applicant's driver's license or nondriver's  
19 identification card issued by the division of motor vehicles  
20 or the equivalent governmental agency of another state within  
21 the United States if the agency indicates on the applicant's  
22 driver's license or nondriver's identification card that the  
23 person has provided satisfactory proof of United States  
24 citizenship.

25           "(2) The applicant's birth certificate that verifies  
26 United States citizenship to the satisfaction of the county  
27 ~~election officer or Secretary of State~~ board of registrars.

1           "(3) Pertinent pages of the applicant's United  
2 States valid or expired passport identifying the applicant and  
3 the applicant's passport number, or presentation to the county  
4 ~~election officer~~ board of registrars of the applicant's United  
5 States passport.

6           "(4) The applicant's United States naturalization  
7 documents or the number of the certificate of naturalization.  
8 If only the number of the certificate of naturalization is  
9 provided, the applicant shall not be included in the  
10 registration rolls until the number of the certificate of  
11 naturalization is verified with the United States Bureau of  
12 Citizenship and Immigration Services by the county election  
13 officer or the Secretary of State, pursuant to 8 U.S.C. §  
14 1373(c).

15           "(5) Other documents or methods of proof of United  
16 States citizenship issued by the federal government pursuant  
17 to the Immigration and Nationality Act of 1952, and amendments  
18 thereto.

19           "(6) The applicant's Bureau of Indian Affairs card  
20 number, tribal treaty card number, or tribal enrollment  
21 number.

22           "(7) The applicant's consular report of birth abroad  
23 of a citizen of the United States of America.

24           "(8) The applicant's certificate of citizenship  
25 issued by the United States Citizenship and Immigration  
26 Services.

1           "(9) The applicant's certification of report of  
2 birth issued by the United States Department of State.

3           "(10) The applicant's American Indian card, with KIC  
4 classification, issued by the United States Department of  
5 Homeland Security.

6           "(11) The applicant's final adoption decree showing  
7 the applicant's name and United States birthplace.

8           "(12) The applicant's official United States  
9 military record of service showing the applicant's place of  
10 birth in the United States.

11           "(13) An extract from a United States hospital  
12 record of birth created at the time of the applicant's birth  
13 indicating the applicant's place of birth in the United  
14 States.

15           ~~"(1) There is hereby established the State Election  
16 Board, consisting of the Secretary of State, the Attorney  
17 General, and the Lieutenant Governor. The State Election Board  
18 shall meet on the call of the Secretary of State. The State  
19 Election Board shall do both of the following:~~

20           ~~"(1) Assess information provided by any applicant  
21 for voter registration as evidence of citizenship pursuant to  
22 subsection (m).~~

23           ~~"(2) Adopt rules to implement subsection (m).~~

24           ~~"(m) (1) If an applicant is a United States citizen  
25 but does not have any of the documentation listed in this  
26 section as satisfactory evidence of United States citizenship,  
27 the applicant may submit any evidence that the applicant~~

1 ~~believes demonstrates the applicant's United States~~  
2 ~~citizenship.~~

3 ~~"(2) Any applicant seeking an assessment of evidence~~  
4 ~~under this section may directly contact the office of the~~  
5 ~~Secretary of State by submitting a voter registration~~  
6 ~~application or the national voter registration form and any~~  
7 ~~supporting evidence of United States citizenship. Upon receipt~~  
8 ~~of this information, the Secretary of State shall notify the~~  
9 ~~State Election Board that such application is pending.~~

10 ~~"(3) The State Election Board shall give the~~  
11 ~~applicant an opportunity for a hearing, upon the applicant's~~  
12 ~~request in writing, and an opportunity to present any~~  
13 ~~additional evidence to the State Election Board. Notice of~~  
14 ~~such hearing shall be given to the applicant at least five~~  
15 ~~days prior to the hearing date. An applicant shall have the~~  
16 ~~opportunity to be represented by counsel at such hearing.~~

17 ~~"(4) The State Election Board shall assess the~~  
18 ~~evidence provided by the applicant to determine whether the~~  
19 ~~applicant has provided satisfactory evidence of United States~~  
20 ~~citizenship. A decision of the State Election Board shall be~~  
21 ~~determined by a majority vote of the board.~~

22 ~~"(5) If an applicant submits an application and any~~  
23 ~~supporting evidence prior to the close of registration for an~~  
24 ~~election cycle, a determination by the State Election Board~~  
25 ~~shall be issued at least five days before such election date.~~

26 ~~"(6) If the State Election Board finds that the~~  
27 ~~evidence presented by the applicant constitutes satisfactory~~

1 ~~evidence of United States citizenship, the applicant shall~~  
2 ~~meet the requirements under this section to provide~~  
3 ~~satisfactory evidence of United States citizenship.~~

4 ~~"(7) If the State Election Board finds that the~~  
5 ~~evidence presented by an applicant does not constitute~~  
6 ~~satisfactory evidence of United States citizenship, the~~  
7 ~~applicant shall have the right to appeal such determination by~~  
8 ~~the State Election Board by instituting an action under 8~~  
9 ~~U.S.C. § 1503. Any negative assessment of an applicant's~~  
10 ~~eligibility by the State Election Board shall be reversed if~~  
11 ~~the applicant obtains a declaratory judgment pursuant to 8~~  
12 ~~U.S.C. § 1503, demonstrating that the applicant is a national~~  
13 ~~of the United States.~~

14 ~~"(n) (1) (1) The Department of Public Health shall not~~  
15 ~~charge or accept any fee for a certified copy of a birth~~  
16 ~~certificate if the certificate is requested by any person who~~  
17 ~~is 17 years of age or older for purposes of meeting the voter~~  
18 ~~registration requirements of this chapter. The person~~  
19 ~~requesting a certified copy of a birth certificate shall swear~~  
20 ~~under oath to both of the following:~~

21 ~~"a. That the person plans to register to vote in~~  
22 ~~this state.~~

23 ~~"b. That the person does not possess any of the~~  
24 ~~documents that constitute evidence of United States~~  
25 ~~citizenship as defined in this chapter.~~

1           "(2) The affidavit shall specifically list the  
2 documents that constitute evidence of United States  
3 citizenship as defined in this chapter.

4           "(m) (1) The county board of registrars shall assess  
5 the evidence provided by the applicant to determine whether  
6 the applicant has provided satisfactory evidence of United  
7 States citizenship. A decision of the county board of  
8 registrars shall be determined by a majority of the board.

9           "(2) If the county board of registrars denies the  
10 application because the applicant did not prove United States  
11 citizenship, the applicant shall have the right of appeal as  
12 outlined in Section 17-3-55.

13           "§31-13-29.

14           "(a) For the purposes of this section, business  
15 transaction ~~includes any transaction between a person and the~~  
16 ~~state or a political subdivision of the state, including, but~~  
17 ~~not limited to,~~ means applying for ~~or renewing~~ a motor vehicle  
18 license plate, applying for ~~or renewing~~ a driver's license or  
19 nondriver identification card, or applying for ~~or renewing~~ a  
20 business license. Business transaction does not include  
21 applying for a marriage license or any other transaction.

22           "(b) An alien not lawfully present in the United  
23 States shall not enter into or attempt to enter into a  
24 business transaction with the state or a political subdivision  
25 of the state and no person shall enter into a business  
26 transaction or attempt to enter into a business transaction on  
27 behalf of an alien not lawfully present in the United States.



1           "(c) Any person entering into a business transaction  
2 or attempting to enter into a business transaction with this  
3 state or a political subdivision of this state shall be  
4 required to demonstrate his or her United States citizenship,  
5 as provided in subsection (g), or his or her lawful presence  
6 in the United States either by presentation of one of the  
7 documents listed in subdivision (10) of Section 31-13-3 or by  
8 other verification with the Department of Homeland Security  
9 pursuant to 8 U.S.C. § 1373(c). Persons demonstrating their  
10 lawful presence in the United States using a foreign passport  
11 with an unexpired United States Visa or a foreign passport  
12 issued by a visa waiver country, or a person who has been  
13 issued a driver's license or nondriver's identification card  
14 bearing a foreign national designation, shall be required to  
15 demonstrate their lawful presence when engaging in all  
16 business transactions, as that term is defined in subsection  
17 (a), regardless of whether such transaction is an initial  
18 transaction or subsequent renewals thereof. ~~or if he or she is~~  
19 ~~an alien, his or her lawful presence in the United States to~~  
20 ~~the person conducting the business transaction on behalf of~~  
21 ~~this state or a political subdivision of this state. United~~  
22 ~~States citizenship shall be demonstrated by presentation of~~  
23 ~~one of the documents listed in subsection (k) of Section~~  
24 ~~31-13-28. An alien's lawful presence in the United States~~  
25 ~~shall be demonstrated by this state's or a political~~  
26 ~~subdivision of this state's verification of the alien's lawful~~  
27 ~~presence through the Systematic Alien Verification for~~

1 ~~Entitlements program operated by the Department of Homeland~~  
2 ~~Security, or by other verification with the Department of~~  
3 ~~Homeland Security pursuant to 8 U.S.C. § 1373(c).~~

4 "(d) A violation of this section by a person not  
5 lawfully present is a Class C felony.

6 "(e) An agency of this state or a county, city,  
7 town, or other political subdivision of this state may not  
8 consider race, color, or national origin in the enforcement of  
9 this section except to the extent permitted by the United  
10 States Constitution or the Constitution of Alabama of 1901.

11 "(f) In the enforcement of this section, an alien's  
12 immigration status shall be determined by verification of the  
13 alien's immigration status with the federal government  
14 pursuant to 8 U.S.C. § 1373(c). An official of this state or  
15 political subdivision of this state shall not attempt to  
16 independently make a final determination of whether an alien  
17 is lawfully present in the United States.

18 "(g) A person's United States citizenship may be  
19 demonstrated or confirmed by any one of the following, which  
20 shall only be necessary for the initial business transaction  
21 issued after the effective date of the act adding this  
22 subdivision, but not subsequent renewals thereof:

23 "(1) A driver's license or nondriver's  
24 identification card issued by the Alabama Department of Public  
25 Safety Division of Motor Vehicles or the equivalent  
26 governmental agency of another state within the United States,  
27 provided that the governmental agency of another state within

1 the United States requires proof of lawful presence in the  
2 United States as a condition of issuance of the driver's  
3 license or nondriver's identification card.

4 "(2) A birth certificate.

5 "(3) Pertinent pages of a United States valid or  
6 expired passport identifying the person and the person's  
7 passport number, or the person's United States passport.

8 "(4) United States naturalization documents or the  
9 number of the certificate of naturalization.

10 "(5) Other documents or methods of proof of United  
11 States citizenship issued by the federal government pursuant  
12 to the Immigration and Nationality Act of 1952, as amended.

13 "(6) Bureau of Indian Affairs card number, tribal  
14 treaty card number, or tribal enrollment number.

15 "(7) A consular report of birth abroad of a citizen  
16 of the United States of America.

17 "(8) A certificate of citizenship issued by the  
18 United States Citizenship and Immigration Services.

19 "(9) A certification of report of birth issued by  
20 the United States Department of State.

21 "(10) An American Indian card, with KIC  
22 classification, issued by the United States Department of  
23 Homeland Security.

24 "(11) Final adoption decree showing the person's  
25 name and United States birthplace.

1           "(12) An official United States military record of  
2 service showing the applicant's place of birth in the United  
3 States.

4           "(13) An extract from a United States hospital  
5 record of birth created at the time of the person's birth  
6 indicating the place of birth in the United States.

7           "(14) AL-verify.

8           "(15) A valid Uniformed Services Privileges and  
9 Identification Card.

10           "(16) Any other form of identification that the  
11 Alabama Department of Revenue authorizes, through an  
12 administrative rule promulgated pursuant to the Alabama  
13 Administrative Procedure Act, to be used to demonstrate or  
14 confirm a person's United States citizenship, provided that  
15 the identification requires proof of lawful presence in the  
16 United States as a condition of issuance."

17           Section 4. The provisions of this act are severable.  
18 If any part of this act is declared invalid or  
19 unconstitutional, that declaration shall not affect the part  
20 which remains.

21           Section 5. This act shall become effective  
22 immediately following its passage and approval by the  
23 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Public Safety  
and Homeland Security..... . . . . . 05-APR-12

Read for the second time and placed  
on the calendar 2 amendments ..... . . . . . 17-APR-12

Read for the third time and passed  
as amended..... . . . . . 19-APR-12

Yeas 64, Nays 34, Abstains 0

Greg Pappas  
Clerk