




State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment II

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2009 LRB-4746 (For: Rep. Pridemore)


has been transferred to the drafting file for

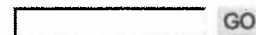
2011 LRB-1116 (For: Rep. Pridemore)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 02/22/2011 (Per: PJH)

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



Issues & Research » Immigration » Analysis of Arizona's Immigration law

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Arizona's Immigration Enforcement Laws: An Overview of SB1070 and HB2162



SB 1070, "Support Our Law Enforcement and Safe Neighborhoods Act," was approved by the Arizona legislature on Monday, April 19 and signed into law by Governor Brewer on Friday, April 23, 2010. SB 1070 includes provisions adding state penalties relating to immigration law enforcement including trespassing, harboring and transporting illegal immigrants, alien registration documents, employer sanctions, and human smuggling.

The trespassing provision appears to be the first of its kind to be enacted in the United States. In the most recent reports by NCSL on state immigration laws, few states have attempted to create a state trespassing violation for unlawful presence. Bills were introduced but failed in Arizona in 2008 and 2009; Texas in 2009; Colorado in 2008;

and California in 2007.

On the same day she signed the bill, Governor Brewer issued Executive Order 2010-09 requiring the Arizona Peace Officers Standards and Training Board to establish training to assure law enforcement officials and agencies implement SB 1070 "consistent with federal laws regulating immigration, protects the civil rights of all persons and respects the privileges and immunities of United States citizens." The executive order also requires clear guidance on what constitutes reasonable suspicion. The Board is to provide a list of the specific forms of identification that provide a presumption that a person is not an alien unlawfully present in the United States.

A series of questions have been raised about the implementation and constitutionality of Arizona SB1070. Some implementation concerns include the costs to the state for enforcing federal immigration law, particularly in tight budget times; how "reasonable suspicion of immigrant status" will be interpreted; and the narrow list of documents eligible to demonstrate lawful presence. Court challenges have raised constitutional issues including due process, equal protection under the 14th amendment, the prohibition on unreasonable search and seizure under the 4th amendment, and preemption under the Supremacy Clause of the U.S. Constitution.

On April 29, the last day of legislative session, the legislature approved and the Governor signed HB 2162 that included provisions intended to address the racial profiling concerns. HB 2162 amends SB 1070 to specify that law enforcement officials cannot consider race, color or national origin when implementing the provisions of the original law, except as permitted by the U.S. or Arizona Constitution. The law clarifies the original law's language around "reasonable suspicion" by requiring state and local law enforcement to reasonably attempt to determine the immigration status of a person only while in the process of a lawful stop, detention, or arrest (the original language referred to "lawful contact.") HB 2162 also stipulates that a lawful stop, detention or arrest must be in the enforcement of any other law or ordinance of a county, city or town of this state.

HB 2162 lowers the original fines in SB 1070 for state or local entities sued by legal residents and found guilty of restricting the enforcement of federal law from a minimum of \$1000 to \$500 for each day the policy is in effect. The law also lowers the fine for individuals that fail to complete or carry an alien registration document from \$500 to \$100 for the first offense.

The law becomes effective July 29, 2010 (90 days after the end of regular legislative session.)

This summary highlights the major provisions of the laws.

Enforcement of Immigration Law

Prohibits state and local law enforcement from restricting enforcement of federal immigration laws.

Requires state and local law enforcement to reasonably attempt to determine the immigration status of a person involved in a lawful stop, detention or arrest in the enforcement of any other local or state law or ordinance where reasonable suspicion exists that the person is an alien and is unlawfully present, except if it may hinder or obstruct an investigation.

Requires immigration status to be verified with the federal government for anyone that is arrested.

Stipulates that law enforcement cannot consider race, color or national origin when implementing these provisions, except as permitted by the U.S. or Arizona Constitution.

Specifies a presumption of lawful presence with these IDs: Arizona driver license or ID; tribal enrollment card or ID; valid federal, state or local government issued identification, if the issuing entity requires proof of legal presence before issuance.

Stipulates that these provisions do not implement or authorize REAL ID.

Allows legal residents to sue state or localities that restrict enforcement of federal law. Indemnifies officers unless they acted in bad faith. Violating entities must pay a civil penalty of at least \$500 for each day the policy is in effect.

Willful Failure to Complete or Carry an Alien Registration Document

Creates a state violation comparable to federal law in 8 USC 1304(e) or 1306(a) and creates state penalties of jail costs and \$100 for a first offense. Stipulates immigration status may be determined by a law enforcement officer authorized by the federal government to verify an alien's immigration status; or U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection.

NOTE: The federal provisions mentioned in the Arizona law are included here for easy reference.

8 USC 1304(e): Personal possession of registration or receipt card; penalties. Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d) of this section. Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both. **8 USC 1306 (a):** Willful failure to register. Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000 or be imprisoned not more than six months, or both.)

Unlawfully Picking Up Passengers for Work

Makes it a class 1 misdemeanor for an occupant of a motor vehicle to hire on a street, roadway or highway if the vehicle blocks or impedes the normal movement of traffic; or to enter a vehicle to be hired and transported; or for an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor.

Stipulates that law enforcement cannot consider race, color or national origin in the enforcement when implementing the provision, except as permitted by the U.S. or Arizona Constitution.

Unlawful Transporting or Harboring Unlawful Aliens

Stipulates that it is unlawful for a person who is in violation of a criminal offense to transport an alien; conceal, harbor or shield an alien; or encourage an alien to come to this state, if the person recklessly disregards the fact the person is here unlawfully. The vehicle may be immobilized or impounded. Provides exceptions for child protective services, first responders, ambulance or emergency medical technicians. Violators are guilty of a class 1 misdemeanor and subject to a fine of at least \$1,000.

Stipulates that law enforcement cannot consider race, color or national origin in the enforcement when implementing the provision, except as permitted by the U.S. or Arizona Constitution.

Employer Sanctions

Provides employers with the affirmative defense that they were entrapped, but they must admit the substantial elements of the violation. The employer has the burden of proof to show law enforcement officer induced the violation.

Requires employers to keep a record of employment verification for the duration of the employee's employment or 3 years whichever is longer.

Miscellaneous

Authorizes peace officers in the enforcement of human smuggling laws to lawfully stop a person if they have a reasonable suspicion to believe the person is in violation of any civil traffic law and to arrest a person without a warrant

if the officer has probable cause to believe the person has committed any public offense that makes the person removable from the United States.

Penalties and fines under this bill are to be deposited to the Department of Public Safety for the Gang and Immigration Intelligence Team Enforcement Mission Fund.

Resources:

Arizona legislature:

Senate Bill 1070 http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=1070

House Bill 2162 http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=2162

Governor's executive order: http://www.azgovernor.gov/dms/upload/EO_042310_EO201009SB1070.pdf

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Revised May 3, 2010*

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Issues & Research » Immigration » 2010 Immigration-Related Bills and Resolutions in

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2010 Immigration-Related Bills and Resolutions in the States (January-March 2010)

With federal immigration reform stalled in Congress, state legislatures continue to tackle immigration issues at an unprecedented rate. In the first quarter of this year, state legislators in 45 states had introduced 1,180 bills and resolutions relating to immigrants and refugees. As of March 31, 2010, 34 state legislatures had passed 107 laws and adopted 87 resolutions; 38 bills were pending signatures on governors' desks. (Montana, Nevada, North Dakota and Texas are not in regular session in 2010, and North Carolina's legislative session began in May.

The number of bills introduced this year so far is more than the first quarter of 2009, when 50 states considered 1,040 bills and resolutions, and only 25 states passed 35 laws and adopted 40 resolutions.

Getting the most attention this year has been Arizona's new immigration enforcement law (SB 1070). It was passed by the Legislature on April 19, 2010, and signed by the governor on April 23. The law:

- Requires law enforcement to reasonably attempt to determine immigration status where reasonable suspicion of unlawful presence exists;
- Allows state residents to sue state and local agencies for noncompliance;
- Creates a state violation for failure to carry an alien registration document;
- Establishes crimes and penalties for trespassing by illegal aliens, stopping to hire or soliciting work under specified circumstances, and transporting, harboring or concealing unlawful aliens.

Other new laws around the country address immigrant issues around education, employment, identification/driver's licenses, and law enforcement.

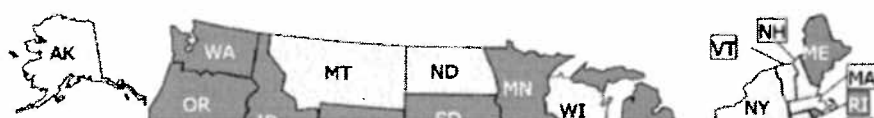
Washington's new law will encourage high school graduation through collaborative partnerships for vulnerable youth, including recent immigrants. Utah, Virginia and West Virginia now require public and private employers to use the federal E-Verify system. Alabama enacted a law regarding child abduction that allows a court to consider the flight risk of the parent if he or she has a strong familial, financial, emotional or cultural tie to another country.

In resolutions, New Mexico asked Congress to enact comprehensive immigration reform that includes ensuring efficient border security, the reunification of immigrant families, a path to citizenship for undocumented workers, and a legal means for temporary workers to enter the United States.

State laws related to immigration have increased dramatically in recent years:

- In 2006, 570 bills were introduced, 84 laws were enacted and 12 resolutions adopted.
- In 2007, 1,562 bills were introduced, 240 laws were enacted and 50 resolutions adopted.
- In 2008, 1,305 bills were introduced, 206 laws were enacted and 64 resolutions adopted.
- In 2009, more than 1,500 bills were introduced, 222 laws were enacted and 131 resolutions adopted.

STATES AND IMMIGRANT-RELATED LAWS



In This Report

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NCSL Resources

- [Immigration Program](#)
- [Task Force on Immigration and the States](#)
- [Overview of Arizona Law](#)

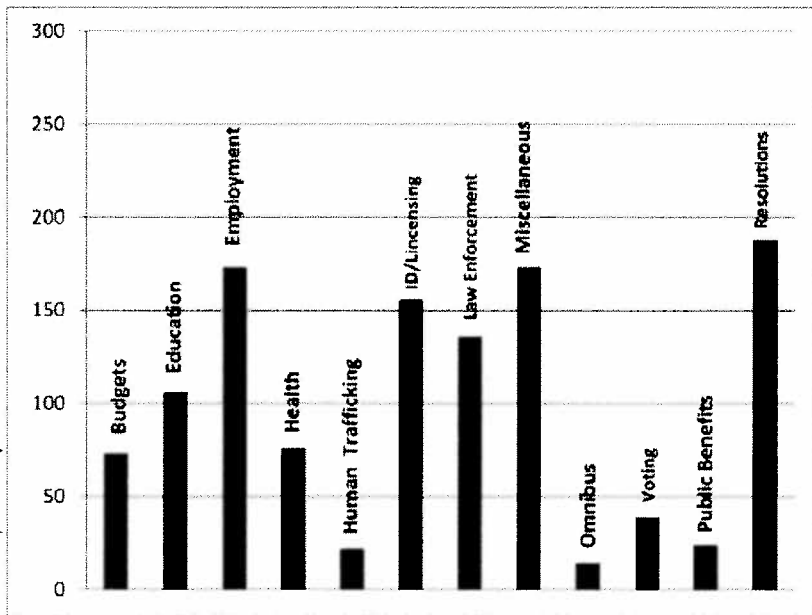
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Methodology

This report provides a look at legislation introduced so far in 2010 and presents selected examples of enacted laws and adopted resolutions. Please note: Beginning with this report, budget bills will be removed from the miscellaneous category, while legal services bills will be combined with law enforcement bills. The NCSL report to be released in July will identify and summarize in detail all enacted legislation from January through June.

Legislative proposals included in this overview address legal immigrants, migrant and seasonal workers, refugees or unauthorized immigrants. Terms used in this report by and large reflect the terms used in state legislation. In some state legislative language, unauthorized immigrants are also described as illegal or undocumented immigrants or aliens.

**Proposed State Immigration Legislation, by Policy Arena
As of March 31, 2010**



Source: NCSL, Immigrant Policy Project, 2010

Main Topics	Bills	Number of	Enacted	Number of
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BUDGETS

Twenty-five state legislatures introduced 73 bills: Arkansas, Arizona, California, Colorado, Delaware, Florida, Hawaii, Iowa, Illinois, Kansas, Maryland, Maine, Michigan, Minnesota, Missouri, Mississippi, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Utah, Virginia, Washington and West Virginia.

These bills include budget and appropriation provisions affecting immigrants, refugees, and migrant and seasonal workers. (Please note: budget bills were previously included in the Miscellaneous category.)

Enacted

Arkansas H 1038

This law allocates \$12,000 in funding for the Arkansas Refugee Resettlement Program.

EDUCATION

Twenty-nine legislatures introduced 106 bills: Alaska, Alabama, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, Mississippi, Nebraska, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Virginia, Washington, West Virginia and Wyoming.

These bills generally address students' lawful residency requirements with respect to scholarships, postsecondary education benefits, and admission to education institutions. Some laws also address early childhood education, after-school programs, and limited English proficiency issues.

Enacted

Idaho S 1367

This law amends existing law relating to public institutions of higher education to provide resident student status for admittance to certain veterans, active duty military, and their dependents. A person who is not a citizen of the United States, who does not have permanent or temporary resident status or does not hold "refugee parolee" or "conditional entrant" status does not qualify for resident student status.

Utah H 114

This law requires higher education institutions to disclose to the state Board of Regents any gifts of \$50,000 or more received from a foreign person.

Washington H 2913

This law authorizes the creation of inter-district cooperative high school programs designed to provide interdisciplinary curriculum and instruction themes through online, direct classroom instruction at multiple and varying locations, and other mechanisms to maximize access for geographically dispersed students, including migrant students.

Washington S 6403

This law seeks to improve high school graduation rates through development of a collaborative infrastructure of state and local education agencies that serve vulnerable youth, including recent immigrants, who are at-risk for school

failure.

Washington S 6467

This law authorizes the granting of honorary degrees for students at public institutions of higher education who were ordered into internment camps in 1942 and as a result did not graduate. The honorary degree may also be requested by representatives of deceased people who meet the requirements.

EMPLOYMENT

Thirty-six legislatures introduced 173 bills: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Michigan, Minnesota, Missouri, Mississippi, Nebraska, New Jersey, New Mexico, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, Wisconsin, West Virginia and Wyoming.

Bills address employment verification issues, including the federal electronic employment eligibility verification system E-Verify, immigrant eligibility for unemployment compensation, and foreign worker visas.

Enacted

Iowa S 2181

This law grants authority to the Division of Labor Services of the Department of Workforce Development to establish guidelines, as needed, to bring Iowa occupational safety and health standards into compliance with federal standards. The law also includes a provision on migrant labor that requires every person, firm or corporation employing migrant laborers to obtain and keep on file a work permit for migrant laborers prior to their employment.

Utah S 251

This law requires employers in Utah to verify the legal status of their employees via a federally approved employment verification system.

Virginia H 737

This law requires state agencies, public contractors, localities and employers with 15 or more employees within the commonwealth to enroll in the E-Verify program by Dec. 1, 2010, and to use the program for each newly hired employee. The law has provisions to suspend or revoke the licenses of employers that do not comply.

West Virginia H 3301

This law requires employers in the state to verify the legal status of their employees. It sets penalties for employers who knowingly employ unauthorized workers including penalties that increase with successive violations up to the permanent revocation of business licenses.

HEALTH

Twenty-seven legislatures introduced 76 bills: California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maryland, Maine, Minnesota, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New York, Oklahoma, Rhode Island, Tennessee, Utah, Virginia, Washington and West Virginia.

These bills address eligibility requirements of immigrants and immigrant children for health programs and services and licensing requirements for foreign-educated health professionals.

Enacted

Idaho H 470

This law requires that foreign-educated physical therapists provide proof of passing scores on standardized English proficiency examinations as a qualification for licensure.

Minnesota S 460

This law revises and adds provisions regarding general assistance medical care to include mental health care and consultation. Under this law, undocumented noncitizens and immigrants are ineligible for general assistance medical care.

Mississippi S 3004

This law modernizes the terminology used for people with intellectual disabilities. The law also expands the maximum amount of TANF benefits available to families with children who have intellectual disabilities. These provisions exclude immigrant families who do not otherwise qualify for TANF.

HUMAN TRAFFICKING

Twelve legislatures introduced 22 bills: Alabama, Arizona, California, Colorado, Florida, Hawaii, Oklahoma, Rhode Island, South Carolina, Utah, Vermont and Washington.

These bills increase penalties for extortion, coercion, human smuggling, sex trafficking and human trafficking. Some

bills require services to protect victims of human trafficking.

Enacted

Utah H 230

This law defines human trafficking for forced sexual exploitation as a second degree felony and human smuggling for profit as a third degree felony in the state of Utah.

Washington S 6332

This law requires international labor recruiters and domestic employers of foreign workers to disclose federal and state labor laws to foreign workers, including information on the minimum wage and occupation safety and health laws. The law also requires employers to provide information to workers on available services for human trafficking victims.

IDENTIFICATION, DRIVER'S LICENSES AND OTHER LICENSES

Thirty-two legislatures introduced 156 bills: Alabama, Arizona, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Minnesota, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New York, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, Wisconsin and West Virginia.

These bills predominantly deal with lawful immigration status or citizenship requirements for driver's licenses and other state issued licenses. State awarded licenses referenced include professional licenses, firearm licenses, and hunting and retail licenses. Several bills require that all tests for driver's licenses be administered in English.

Enacted

Idaho H 444

This law revises requirements for a license to carry concealed weapons and requires that the application for these licenses include place of birth and citizenship.

Mississippi H 930

This law defines the requirements for issuing or renewing a noncitizen's driver's license or state identification card.

South Dakota H 1107

This law provides for renewal of certain nonresident commercial driver's licenses, requires evidence of legal presence in the United States upon renewal of nonresident commercial driver's license, and allows the Department of Transportation to renew a nonresident commercial driver's license without a skills or knowledge test if the license has been expired for less than one year.

LAW ENFORCEMENT

Thirty-three legislatures introduced 136 bills: Alabama, Arizona, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Minnesota, Missouri, Mississippi, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia and Wyoming.

These bills address bail, parole, no-plea bargains and other court proceedings with respect to immigrants, including release and deportation requirements. Some bills pertain to the services that a notary can perform for an immigrant. These bills also address cooperative agreements (the 287(g) program) in which states can enter into a Memorandum of Understanding with the U.S. Department of Homeland Security to enforce federal immigration laws. Several bills also address the role of municipal governments in immigration enforcement. (Please note: Legal services bills are now included in this category.)

Enacted

Alabama H 213

This law creates a Uniform Child Abduction Prevention act designed to clarify procedures for a parent or guardian and for a court to follow to prevent a child abduction. Factors that can be considered by the court to determine risk of abduction include a lack of strong familial, financial, emotional or cultural ties to the state or the United States; strong familial, financial, emotional or cultural ties to another state or country; a likelihood of taking the child to a country that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction. It does not provide for the extradition of an abducting parent or for the return of an abducted child.

Oklahoma H 2837

This law requires any immigrant unlawfully present under federal immigration law to submit to DNA testing for law enforcement identification purposes upon arrest.

MISCELLANEOUS

Thirty-four legislatures introduced 173 bills: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia,

Hawaii, Idaho, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin.

These bills deal with a variety of issues, such as task forces and reports related to immigrants, language issues, family law, local governments and tenancy regulations.

Enacted

Nebraska L 139

This law renames the Commission on Mexican-Americans to the Commission on Latino-Americans.

OMNIBUS/MULTI-ISSUE LEGISLATION

Ten legislatures introduced 14 bills: Alabama, Arizona, Illinois, Indiana, Iowa, Kansas, Louisiana, Mississippi, Oklahoma and Washington.

These bills address multiple immigration-related topics within one bill, such as employment, law enforcement and public benefits. They often include provisions regarding employer sanctions for hiring unauthorized workers; the use of federal employment eligibility verification systems; cooperation with the federal government on the enforcement of federal immigration laws; prohibitions on harboring or transporting unauthorized immigrants; and verification of citizenship/immigration status with respect to public benefits eligibility.

PUBLIC BENEFITS

Eighteen legislatures introduced 39 bills: Alaska, Alabama, Arizona, California, Colorado, Florida, Illinois, Indiana, Maryland, Michigan, Minnesota, Mississippi, New York, Oklahoma, Tennessee, Washington, Wisconsin and West Virginia.

These bills relate to individuals and their eligibility to receive public benefits, such as requiring proof of lawful presence in the United States before receiving certain public benefits. Some bills would require state agencies to use certain eligibility verification systems or to deny public benefits to unauthorized immigrants. Several bills would also make funds available for certain immigrants and refugees.

Enacted

Washington H 2782

This law reorganizes delivery of services to recipients of public assistance, requires certain agencies to work on the expansion of the food stamp employment and training program, and establishes the disability lifeline program, with strategies to improve the employment and basic support of people in the program. It requires that people receiving disability benefits be legal residents of the United States.

VOTING

Twelve legislatures introduced 24 bills: Alabama, Arizona, California, Illinois, Kansas, Maryland, Mississippi, New Hampshire, Oklahoma, South Carolina, Utah and Virginia.

These bills address voter registration, including verification of citizenship. Proposals also pertain to the ability of immigrants to vote and to be elected to public office.

Enacted

Utah H 254

This law defines which forms of personal identification are valid for voter identification. Valid forms of identification include certified naturalization documentation.

Utah S 18

This law relates to election laws. It creates provisions for the deadline for filing declarations of candidacy, requires the consent of the Senate for the governor to appoint a lieutenant governor, and clarifies the type of identification that can be used on a voter registration form. The law requires two forms of voter identification, including naturalization documentation, to confirm a voter resides in the voting precinct.

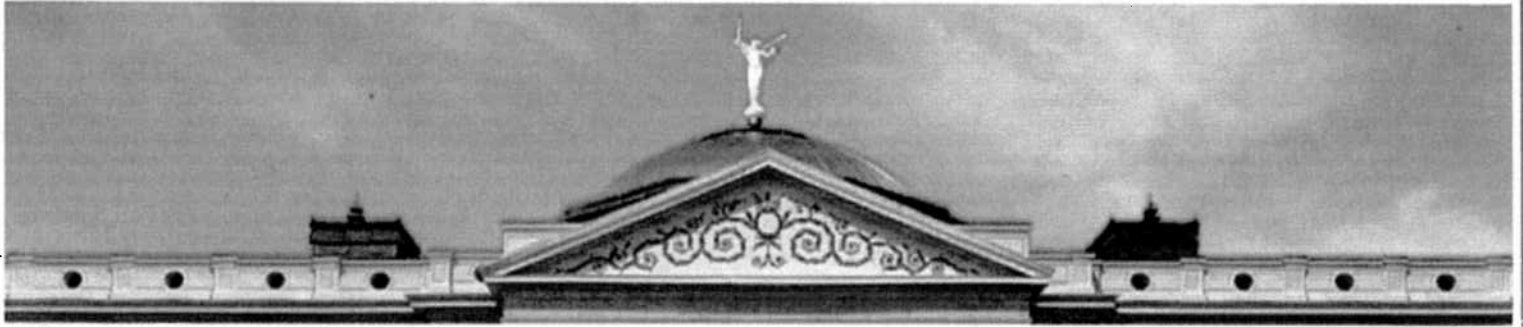
Utah S 53

This law defines the circumstances under which someone can challenge the validity of a person's right to vote, including claims the person is not a citizen of the United States.

RESOLUTIONS

Thirty-one legislatures introduced 188 resolutions: Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin and West Virginia.

Arizona State Legislature

Bill Number Search: 

Forty-ninth Legislature - Second Regular Session

[change session](#) | [printer friendly version](#)[Email a Member](#) | [Email Webmaster](#)[Senate](#)[House](#)[Legislative Council](#)[JLBC](#)[More Agencies](#)[Bills](#)[Committees](#)[Calendars/News](#)**Conference Engrossed**

**State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010**

HOUSE BILL 2162

AN ACT

AMENDING SECTIONS 1-501 AND 1-502, ARIZONA REVISED STATUTES; AMENDING SECTION 11-1051, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 2, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-1509, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 3, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2928, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2929, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH

LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO IMMIGRATION AND BORDER SECURITY; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

These resolutions and memorials declare the intent of the chamber or the full state legislature regarding a specific immigration issue. Several resolutions request action from the federal government regarding reform of the U.S. immigration system; others honor the achievements and contributions of ethnic groups, organizations and individuals.

Adopted**Alabama SJR 31**

This joint resolution urges Congress to continue funding the E-verify program.

New Jersey SR 23

This resolution urges Congress to enact the Haitian Protection Act of 2009 to grant qualifying Haitian nationals in the United States temporary protected status.

New Mexico HM 60

This House Memorial urges Congress to enact comprehensive immigration reform legislation that ensures efficient border security, the reunification of immigrant families, a path to citizenship for undocumented workers currently in the United States, a legal means of immigration for foreign nationals who want to work in the United States temporarily and for those who desire to become legal permanent residents or citizens, and provides resources for cities. Prepared by: Jennifer Bailey, Bill Emerson National Hunger Fellow, NCSL Immigrant Policy Project

Edited by:

Ann Morse, Program Director, Immigrant Policy Project, NCSL

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Revised May 5, 2010

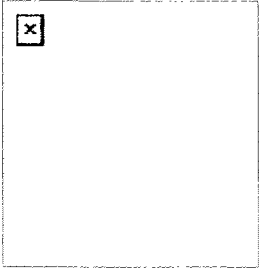
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**Arizona House of Representatives
House Majority Research
MEMORANDUM**

René Guillen
Committee Analyst, Banking & Insurance

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Phoenix, AZ 85007-2848

Water and Energy
(602) 542-3072

FAX (602) 417-3096

to: Rep. Nichols
cc: Steve Moortel
re: HB 2162 (NOW: immigration; border security)
date: April 29, 2010

HB 2162 was amended in the Senate with a strike-everything amendment and has passed on Third Read 18-11-1. Since this bill has appeared on Blue Sheet #9 for your concurrence or refusal, I would like to give you an overview of the Senate amendments.

House Engrossed

As passed by the House, HB 2162 establishes a new individual and corporate income tax credit for research and development, production, and delivery system costs associated with solar liquid fuel for TY 2011 through TY 2026.

Senate Amendments

The Senate Appropriations Committee adopted a strike-everything amendment establishing the 18-member Arizona Border Security Commission (Commission).

Arizona Border Security Commission

Prescribes Commission membership and states that members are not eligible for compensation but are eligible for reimbursement of expenses pursuant to statute.

Requires the Commission to meet monthly and:

- > Report on the status of the United States and Mexico border.
- > Analyze border crossing statistics and related crime statistics.
- > Recommend methods and procedures to increase border security.
- > Recommend the establishment of 12 forward operating bases (FOBs) along the United States-Mexico border, prescribe locations for these bases and urge the federal government and New Mexico to establish additional FOBs.
- > Recommend the following to the appropriate federal authority:
 - Immediate deployment of operational units of the United States military to the United States-Mexico border in Arizona.
 - Deployment of an additional 3,000 border patrol agents in Arizona on or before December 21, 2011.
 - Expediting the deployment of new generation digital radio technology to border patrol agents in Arizona and New Mexico on or before December 31, 2010.
 - Substantial increases in certain classes of border patrol surveillance units in Arizona along the United States-Mexico border including operational personnel.
- > Urge the governor to deploy Arizona National Guard Units along the United-States Mexico border.
- > Analyze and report on the fraudulent procurement of public benefits by illegal aliens in Arizona.

Allows the Commission to use the services of legislative staff as required.

Requires the submission of a written report of Commission findings and recommendations on or before October 1, 2010 and each month thereafter to the President of the Senate, the Speaker of the House of Representatives and the Secretary of State.

Appropriation & Pilot Program

Distributes \$200,000 from the monies appropriated to the Department of Public Safety (DPS) for the Gang and Immigration Intelligence Team Enforcement Missions (GIITEM) in Fiscal Year 2010-11 to the Cochise County Sheriff's Office for border security.

Further states that the GIITEM transfer of \$200,000 shall be used for the costs of equipment related to a pilot program to dispatch a volunteer security force to the United States-Mexico border.

Requires the Director of DPS to use GIITEM monies for the purpose of directing DPS officers to Cochise County to secure the United States-Mexico border *or* to establish a pilot program for this purpose.

miscellaneous

Contains a repeal date of December 31, 2014 for the Commission.

Requires that in court actions regarding the violation of the proper disbursement of federal, state and local public benefits, the prevailing party be awarded reasonable attorney fees.

Modifies the definition of *state or local public benefit*.

HB 2162 was additionally amended on the floor to make the following changes to SB 1070 – NOW: safe neighborhoods; immigration; law enforcement.

Strikes “or practice” to limit actions that may be brought by AZ residents to policies against entities that have adopted or implemented a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

Reduces the minimum civil penalty that the court must order an entity to pay from \$1,000 to \$500 if there is a judicial finding that an entity has adopted or implemented a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

Conference Committee Amendment

Inserts the original definition of *state or local public benefit*, but retains the exclusion of services widely available to the general population as a whole.

Rewords the provision relating to the awarding of attorney fees.

Arizona Border Security Commission

Renames the Commission to the Joint Border Security Advisory Committee (Committee).

Makes various changes to the makeup of the Committee.

Reduces the duties of the Committee.

Removes the appropriation clause.

B 1070: NOW: safe neighborhoods; immigration; law enforcement

Changes “lawful contact” to “lawful stop, detention or arrest.”

Stipulates that a lawful stop, detention or arrest must be in the enforcement of any other law or ordinance of a county, city or town or this state.

Stipulates that a reasonable attempt must be made, when practicable, to determine the immigration status of a person except if the determination may hinder or obstruct an investigation when reasonable suspicion exists that the person is an alien *and* is unlawfully present in the U.S.

Removes “solely” from the provision relating the prohibition on discriminatory enforcement.

Stipulates that for the *Enforcement of Immigration Law, Unlawfully Picking up Passengers for Work and Unlawful Transporting or Harboring Unlawful Aliens* the immigration status may be determined by:

- > A law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.
- > ICE or CBP pursuant to 8 U.S.C. § 1373(c).

Specifies that 8 U.S.C § 1373 and 8 U.S.C § 1644 are included in the federal immigration laws relating to challenge regarding policies adopted or implemented by an entity.

Stipulates that for the enforcement of *Willful Failure to Complete or Carry an Alien Registration Document*

Unlawfully Picking up Passengers for Work and Unlawfully Transporting or Harboring Unlawful Aliens a law enforcement official or agency cannot consider race, color or national origin when implementing these provisions except as permitted by the U.S. or Arizona Constitution.

Removes the addition assessments for those found to be in violation of *Willful Failure to Complete or Carry an Alien Registration Document*.

Eliminates certain violations of *Willful Failure to Complete or Carry an Alien Registration Document* that were class 3 and class 4 felonies.

Limits fines for first time violators of *Willful Failure to Complete or Carry an Alien Registration Document* to \$100.

Prohibits the courts from sentencing first time violators of *Willful Failure to Complete or Carry an Alien Registration Document* to more than 20 days in jail.

Prohibits the courts from sentencing second or subsequent violators of *Willful Failure to Complete or Carry an Alien Registration Document* to more than 30 days in jail.

• ----- DOCUMENT FOOTER -----

• ----- DOCUMENT FOOTER -----

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 1-501, Arizona Revised Statutes, is amended to read:

1-501. Eligibility for federal public benefits; documentation; violation; classification; citizen suits; attorney fees; definition

A. Notwithstanding any other state law and to the extent permitted by federal law, any NATURAL person who applies for a federal public benefit that is administered by this state or a political subdivision of this state and that requires participants to be citizens of the United States, legal residents of the United States or otherwise lawfully present in the United States shall submit at least one of the following documents to the entity that administers the federal public benefit demonstrating lawful presence in the United States:

- 1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.**
- 2. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.**
- 3. A United States certificate of birth abroad.**
- 4. A United States passport.**
- 5. A foreign passport with a United States visa.**
- 6. An I-94 form with a photograph.**
- 7. A United States citizenship and immigration services employment authorization document or refugee travel document.**
- 8. A United States certificate of naturalization.**
- 9. A United States certificate of citizenship.**
- 10. A tribal certificate of Indian blood.**
- 11. A tribal or bureau of Indian affairs affidavit of birth.**

B. For the purposes of administering the Arizona health care cost containment system, documentation of citizenship and legal residence shall conform with the requirements of title XIX of the social security act.

C. To the extent permitted by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly and persons with disabilities or incapacity of the mind or body to provide documentation as specified in section 6036 of the federal deficit reduction act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu of the documentation required by this section.

D. Any person who applies for federal public benefits shall sign a sworn affidavit stating that the documents presented pursuant to subsection A OF THIS SECTION are true under penalty of perjury.

E. Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any federal public benefit is a class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a class 2 misdemeanor.

F. This section shall be enforced without regard to race, color, religion, sex, age, disability or national origin.

G. Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

I. For the purposes of this section, "federal public benefit" has the same meaning prescribed in 8 United States Code section 1611.

Sec. 2. Section 1-502, Arizona Revised Statutes, is amended to read:

1-502. Eligibility for state or local public benefits; documentation; violation; classification; citizen suits; attorney fees; definition

A. Notwithstanding any other state law and to the extent permitted by federal law, any agency of this state or a political subdivision of this state that administers any state or local public benefit shall require each NATURAL person who applies for the state or local public benefit to submit at least one of the following documents to the entity that administers the state or local public benefit demonstrating lawful presence in the United States:

- 1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.**
- 2. A birth certificate or delayed birth certificate issued in any state, territory or possession**

of the United States.

3. A United States certificate of birth abroad.

4. A United States passport.

5. A foreign passport with a United States visa.

6. An I-94 form with a photograph.

7. A United States citizenship and immigration services employment authorization document or refugee travel document.

8. A United States certificate of naturalization.

9. A United States certificate of citizenship.

10. A tribal certificate of Indian blood.

11. A tribal or bureau of Indian affairs affidavit of birth.

B. For the purposes of administering the Arizona health care cost containment system, documentation of citizenship and legal residence shall conform with the requirements of title XIX of the social security act.

C. To the extent permitted by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly and persons with disabilities or incapacity of the mind or body to provide documentation as specified in section 6036 of the federal deficit reduction act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu of the documentation required by this section.

D. Any person who applies for state or local public benefits shall sign a sworn affidavit stating that the documents presented pursuant to subsection A OF THIS SECTION are true under penalty of perjury.

E. Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any state or local public benefit is a class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a class 2 misdemeanor.

F. This section shall be enforced without regard to race, color, religion, sex, age, disability or national origin.

G. Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

I. For the purposes of this section, "state or local public benefit" has the same meaning prescribed in 8 United States Code section 1621, except that it does not include commercial or professional licenses, or benefits provided by the public retirement systems and plans of this state OR SERVICES WIDELY AVAILABLE TO THE GENERAL POPULATION AS A WHOLE.

Sec. 3. Section 11-1051, Arizona Revised Statutes, as added by Senate Bill 1070, section 2, forty-ninth legislature, second regular session, as transmitted to the governor, is amended to read:

11-1051. Cooperation and assistance in enforcement of immigration laws; indemnification

A. No official or agency of this state or a county, city, town or other political subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

B. For any lawful ~~contact~~ STOP, DETENTION OR ARREST made by a law enforcement official or a law enforcement agency of this state or a law enforcement official or a law enforcement agency of a county, city, town or other political subdivision of this state IN THE ENFORCEMENT OF ANY OTHER LAW OR ORDINANCE OF A COUNTY, CITY OR TOWN OR THIS STATE where reasonable suspicion exists that the person is an alien ~~who~~ AND is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Any person who is arrested shall have the person's immigration status determined before the person is released. The person's immigration status shall be verified with the federal government pursuant to 8 United States code section 1373(c). A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not ~~solely~~ consider race, color or national origin in implementing the requirements of this subsection except to the extent permitted by the United States or Arizona Constitution. A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of

the following:

1. A valid Arizona driver license.
2. A valid Arizona nonoperating identification license.
3. A valid tribal enrollment card or other form of tribal identification.
4. If the entity requires proof of legal presence in the United States before issuance, any valid United States federal, state or local government issued identification.

C. If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or on the assessment of any monetary obligation that is imposed, the United States immigration and customs enforcement or the United States customs and border protection shall be immediately notified.

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

E. IN THE IMPLEMENTATION OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS MAY BE DETERMINED BY:

1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

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

1. Determining eligibility for any public benefit, service or license provided by any federal, state, local or other political subdivision of this state.

2. Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state.

3. If the person is an alien, determining whether the person is in compliance with the federal registration laws prescribed by title II, chapter 7 of the federal immigration and Nationality act.

4. Pursuant to 8 United States Code section 1373 and 8 United States Code section 1644.

G. This section does not implement, authorize or establish and shall not be construed to implement, authorize or establish the REAL ID act of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of a radio frequency identification chip.

H. A person who is a legal resident of this state may bring an action in superior court to challenge any official or agency of this state or a county, city, town or other political subdivision of this state that adopts or implements a policy or practice that limits or restricts the enforcement of federal immigration laws, INCLUDING 8 UNITED STATES CODE SECTIONS 1373 AND 1644, to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order that the entity pay a civil penalty of not less than one thousand FIVE HUNDRED dollars and not more than five thousand dollars for each day that the policy has remained in effect after the filing of an action pursuant to this subsection.

I. A court shall collect the civil penalty prescribed in subsection H of this section and remit the civil penalty to the state treasurer for deposit in the gang and immigration intelligence team enforcement mission fund established by section 41-1724.

J. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

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

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

Sec. 4. Section 13-1509, Arizona Revised Statutes, as added by Senate Bill 1070, section 3, forty-ninth legislature, second regular session, as transmitted to the governor, is amended to read:

13-1509. Willful failure to complete or carry an alien registration document; assessment; exception; authenticated records; classification

A. In addition to any violation of federal law, a person is guilty of willful failure to complete or carry an alien registration document if the person is in violation of 8 United States Code section 1304(e) or 1306(a).

B. In the enforcement of this section, an alien's immigration status may be determined by:

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

2. The United States immigration and customs enforcement or the United States customs and border protection pursuant to 8 United States Code section 1373(c).

C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

~~E. D. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon, commutation of sentence, or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or the person is eligible for release pursuant to section 41-1604.07.~~

~~D. E. In addition to any other penalty prescribed by law, the court shall order the person to pay jail costs. and an additional assessment in the following amounts:~~

~~1. At least five hundred dollars for a first violation.~~

~~2. Twice the amount specified in paragraph 1 of this subsection if the person was previously subject to an assessment pursuant to this subsection.~~

~~E. A court shall collect the assessments prescribed in subsection D of this section and remit the assessments to the department of public safety, which shall establish a special subaccount for the monies in the account established for the gang and immigration intelligence team enforcement mission appropriation. Monies in the special subaccount are subject to legislative appropriation for distribution for gang and immigration enforcement and for county jail reimbursement costs relating to illegal immigration.~~

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

G. Any record that relates to the immigration status of a person is admissible in any court without further foundation or testimony from a custodian of records if the record is certified as authentic by the government agency that is responsible for maintaining the record.

H. A violation of this section is a class 1 misdemeanor, except that THE MAXIMUM FINE IS ONE HUNDRED DOLLARS AND FOR a FIRST violation of this section is: THE COURT SHALL NOT SENTENCE THE PERSON TO MORE THAN TWENTY DAYS IN JAIL AND FOR A SECOND OR SUBSEQUENT VIOLATION THE COURT SHALL NOT SENTENCE THE PERSON TO MORE THAN THIRTY DAYS IN JAIL.

~~1. A class 3 felony if the person violates this section while in possession of any of the following:~~

~~(a) A dangerous drug as defined in section 13-3401.~~

~~(b) Precursor chemicals that are used in the manufacturing of methamphetamine in violation of section 13-3404.01.~~

~~(c) A deadly weapon or a dangerous instrument, as defined in section 13-105.~~

~~(d) Property that is used for the purpose of committing an act of terrorism as prescribed in section 13-2308.01.~~

~~2. A class 4 felony if the person either:~~

~~(a) Is convicted of a second or subsequent violation of this section;~~

~~(b) Within sixty months before the violation, has been removed from the United States pursuant to 8 United States Code section 1229a or has accepted a voluntary removal from the United States pursuant to 8 United States Code section 1229c.~~

Sec. 5. Section 13-2928, Arizona Revised Statutes, as added by Senate Bill 1070, section 5, forty-ninth legislature, second regular session, as transmitted to the governor, is amended to read:

13-2928. Unlawful stopping to hire and pick up passengers for work; unlawful application, solicitation or employment; classification; definitions

A. It is unlawful for an occupant of a motor vehicle that is stopped on a street, roadway or highway to attempt to hire or hire and pick up passengers for work at a different location if the

motor vehicle blocks or impedes the normal movement of traffic.

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

C. It is unlawful for a person who is unlawfully present in the United States and who is an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor in this state.

D. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

E. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS MAY BE DETERMINED BY:

1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

~~D~~ **F. A violation of this section is a class 1 misdemeanor.**

~~E~~ **G. For the purposes of this section:**

1. "Solicit" means verbal or nonverbal communication by a gesture or a nod that would indicate to a reasonable person that a person is willing to be employed.

2. "Unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the United States as described in 8 United States Code section 1324a (h)(3).

Sec. 6. Section 13-2929, Arizona Revised Statutes, as added by Senate Bill 1070, section 5, forty-ninth legislature, second regular session, as transmitted to the governor, is amended to read:

13-2929. Unlawful transporting, moving, concealing, harboring or shielding of unlawful aliens; vehicle impoundment; exception; classification

A. It is unlawful for a person who is in violation of a criminal offense to:

1. Transport or move or attempt to transport or move an alien in this state, in furtherance of the illegal presence of the alien in the United States, in a means of transportation if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

2. Conceal, harbor or shield or attempt to conceal, harbor or shield an alien from detection in any place in this state, including any building or any means of transportation, if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

3. Encourage or induce an alien to come to or reside in this state if the person knows or recklessly disregards the fact that such coming to, entering or residing in this state is or will be in violation of law.

B. A means of transportation that is used in the commission of a violation of this section is subject to mandatory vehicle immobilization or impoundment pursuant to section 28-3511.

C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

D. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS MAY BE DETERMINED BY:

1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

~~E~~ **E. This section does not apply to a child protective services worker acting in the worker's official capacity or a person who is acting in the capacity of a first responder, an ambulance attendant or an emergency medical technician and who is transporting or moving an alien in this state pursuant to title 36, chapter 21.1.**

~~D~~ **F. A person who violates this section is guilty of a class 1 misdemeanor and is subject to a fine of at least one thousand dollars, except that a violation of this section that involves ten or more illegal aliens is a class 6 felony and the person is subject to a fine of at least one thousand**

dollars for each alien who is involved.

Sec. 7. Joint border security advisory committee; membership; duties; report; delayed repeal

A. The joint border security advisory committee is established consisting of the following members:

- 1. The president of the senate or the president's designee.**
- 2. The speaker of the house of representatives or the speaker's designee.**
- 3. Two members of the house of representatives who are appointed by the speaker of the house of representatives.**

4. Two members of the senate who are appointed by the president of the senate.

5. Six members who are appointed by the governor.

B. Committee members are not eligible to receive compensation for committee activities but may be eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

C. The president and the speaker of the house of representatives shall each appoint a cochairperson of the committee.

D. The commission shall meet on the call of the two cochairpersons, but no more frequently than monthly.

E. The committee may:

- 1. Take testimony and other evidence regarding the international border with Mexico.**
- 2. Analyze border crossing statistics.**
- 3. Analyze related crime statistics.**
- 4. Make recommendations designed to increase border security.**
- 5. Make other recommendations deemed essential by the committee.**

F. The committee may use the services of legislative staff as required.

G. Beginning November 30, 2010 and each month thereafter, the commission shall submit a written report of its findings and recommendations to the speaker of the house of representatives, the president of the senate and the governor. The commission shall provide a copy of the report to the secretary of state.

H. Notwithstanding any law to the contrary, the committee may vote to go into executive session to take testimony or evidence it considers sensitive or confidential in nature, which if released could compromise the security or safety of law enforcement or military personnel or a law enforcement or national guard law enforcement support operation.

I. This section is repealed from and after December 31, 2014.

Sec. 8. Immigration legislation challenges

A. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and any other law, through December 31, 2010, the attorney general shall act at the direction of the governor in any challenge in a state or federal court to Laws 2010, chapter 113 and any amendments to that law.

B. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and any other law, through December 31, 2010, the governor may direct counsel other than the attorney general to appear on behalf of this state to defend any challenge to Laws 2010, chapter 113 and any amendments to that law.

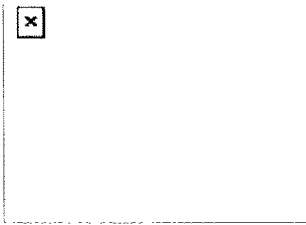
Sec. 9. Conditional enactment

Sections 11-1051, 13-1509, 13-2928 and 13-2929, Arizona Revised Statutes, as amended by this act, do not become effective unless Senate Bill 1070, forty-ninth legislature, second regular session, relating to unlawfully present aliens, becomes law.

Assigned to PSHS

FOR COMMITTEE

318 N



ARIZONA STATE SENATE
Forty-ninth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1070

immigration; law enforcement; safe neighborhoods

Purpose

Requires officials and agencies of the state and political subdivisions to fully comply with and assist in the enforcement of federal immigration laws and gives county attorneys subpoena power in certain investigations of employers. Establishes crimes involving trespassing by illegal aliens, stopping to hire or soliciting work under specified circumstances, and transporting, harboring or concealing unlawful aliens, and their respective penalties.

Background

fed law refers entry alien to immigration

Federal law provides that any alien who 1) enters or attempts to enter the U.S. at any time or place other than as designated by immigration officers, 2) eludes examination by immigration officers, or 3) attempts to enter or obtains entry to the U.S. by a willfully false or misleading representation is guilty of improper entry by an alien. For the first commission of the offense, the person is fined, imprisoned up to six months, or both, and for a subsequent offense, is fined, imprisoned up to 2 years, or both (8 U.S.C. § 1325).

The U.S. Immigration and Customs Enforcement (ICE) is the primary authority for enforcing immigration laws. ICE was created in March 2003 as an investigative branch of the Department of Homeland Security. ICE was the result of combining the Immigration and Naturalization Service and the U.S. Customs Service.

claim trespass

Current statute defines *criminal trespass in the first degree* as a person knowingly entering or remaining unlawfully in areas related to residential structures, residential yards, real property subject to a valid mineral claim or lease under certain circumstances, property if the person defaces religious symbols or religious property, or critical public service facilities. Depending on the circumstances, criminal trespass in the first degree provides penalties ranging from a class 1 misdemeanor to a class 6 felony (A.R.S. § 13-1504).

not covered existing in Administration Dept

In 2007, Arizona enacted the Legal Arizona Workers Act (LAWA), prohibiting an employer from knowingly or intentionally employing an unauthorized alien and establishing penalties for employers in violation. The U.S. Citizenship and Immigration Services office administers the Systematic Alien Verification for Entitlements (SAVE) Program. The SAVE Program, together with the Social Security Administration (SSA), administers E-Verify, which allows employers to electronically confirm the employment eligibility of all newly hired employees. LAWA requires all Arizona employers to use E-Verify to verify the employment eligibility of new hires. Proof of verifying the employment authorization of an employee through E-Verify creates a rebuttable presumption that an employer did not intentionally or knowingly employ an unauthorized alien.

The fiscal impact is unknown; however, there may be additional costs associated with criminal prosecution and detention of persons who are accused and convicted of the crimes established in this legislation. Additionally, the addition of new fines associated with this measure may also have an impact.

Provisions

Enforcement

1. Requires a reasonable attempt to be made to determine the immigration status of a person during any legitimate contact made by an official or agency of the state or a county, city, town or political subdivision (political subdivision) if reasonable suspicion exists that the person is an alien who is unlawfully present in the U.S.
2. Requires the person's immigration status to be verified with the federal government pursuant to federal law. *✓ who?*
3. Requires an alien unlawfully present in the U.S. who is convicted of a violation of state or local law to be transferred immediately to the custody of ICE or Customs and Border Protection, on discharge from imprisonment or assessment of any fine that is imposed. *Does ICE do this?*
4. Allows a law enforcement agency to securely transport an alien who is unlawfully present in the U.S. and who is in the agency's custody to:
 - a) a federal facility in this state or *✓*
 - b) any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency.
5. Allows a law enforcement officer, without a warrant, to arrest a person if the officer has probable cause to believe that the person has committed any public offense that makes the person removable from the U.S. *can they arrest? MGS - prob. cause*
6. Prohibits officials or agencies of the state and political subdivisions from being prevented or restricted from sending, receiving or maintaining an individual's immigration status information or exchanging that information with any other governmental entity for the following official purposes:
 - a) determining eligibility for any public benefit, service or license provided by any federal, state, local or other political subdivision of this state;
 - b) verifying any claim of residence or domicile if that verification is required under state law or a judicial order issued pursuant to a civil or criminal proceeding in the state;
 - c) confirming a detainee's identity; and
 - d) if the person is an alien, determining whether the person is in compliance with federal alien registration laws.
7. Disallows officials or agencies of the state or political subdivisions from adopting or implementing policies that limit immigration enforcement to less than the full extent permitted by federal law, and allows a person to bring an action in superior court to challenge an official or agency that does so. *MGS - local govt?*
8. Requires the court, if there is a judicial finding that an entity has committed a violation, to order any of the following:
 - a) that the plaintiff recover court costs and attorney fees;
 - b) that the defendant pay a civil penalty of not less than \$1,000 and not more than \$5,000 for each day that the policy has remained in effect after the filing of the action.
9. Requires the court to collect and remit the civil penalty to the Department of Public Safety (DPS), which must establish a special subaccount for the monies in the account established for the Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) appropriation.
10. Specifies that law enforcement officers are indemnified by their agencies against reasonable costs and expenses, including attorney fees, incurred by the officer in connection with any action, suit or proceeding brought pursuant to this statute to which the officer may be a party by reason of the officer being or having been a member of the law enforcement agency, except in relation to matters in which the officer is adjudged to have acted in bad faith. *dfs*

Trespassing by Illegal Aliens

11. Specifies that, in addition to any violation of federal law, a person is guilty of trespassing if the person is:
 - a) present on any public or private land in the state and
 - b) is not carrying his or her alien registration card or has willfully failed to register. *21*

- 12. Requires, in the enforcement of this statute, the final determination of an alien's immigration status to be determined by:
 - a) a law enforcement officer who is authorized to verify or ascertain an alien's immigration status or *MES*
 - b) a law enforcement officer or agency communicating with ICE or the U.S. Border Protection.
- 13. Stipulates that a person is not eligible for suspension or commutation of sentence or release on any basis until the sentence imposed is served. *no probation*
- 14. Directs the person to pay jail costs and an additional assessment of at least \$500 for the first violation or at least \$1,000 for subsequent offenses. *what does it do? - surcharge? - equivalent?*
- 15. Requires the court to collect and remit the assessments to DPS for the special GIITEM subaccount.
- 16. Specifies that the trespassing statute does not apply to a person who maintains authorization from the federal government to remain in the U.S.
- 17. Classifies the violation as follows: *find out what happens with*
 - a) a class 2 felony if the person commits the violation while in possession of a dangerous drug, precursor chemicals used in the manufacturing of methamphetamine, a deadly weapon or dangerous instrument or property that is used for committing an act of terrorism;
 - b) a class 4 felony for a second or subsequent offense or if the person, within 60 months before the violation, accepted a voluntary removal from the U.S. or has been deported;
 - c) a class 1 misdemeanor in all other cases.

Unlawful Stopping and Solicitation of Work

- 18. Specifies that it is unlawful, if a motor vehicle is stopped on a street, roadway or highway and blocks or impedes the normal movement of traffic:
 - a) for a motor vehicle occupant to attempt to hire or hire and pick up passengers for work at a different location;
 - b) for a person to enter the motor vehicle in order to be hired by a motor vehicle occupant and to be transported to work at a different location. *does requester want this*
- 19. Stipulates that it is unlawful for a person who is unlawfully present in the U.S. and who is an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor in Arizona.
- 20. Classifies these offenses as class 1 misdemeanors.
- 21. Defines solicit and unauthorized alien.

Unlawful Transporting

- 22. Specifies that it is unlawful for a person to do or attempt to do the following if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the U.S. in violation of law:
 - a) transport or move an alien in Arizona in a means of transportation;
 - b) conceal, harbor or shield an alien from detection in any place in Arizona, including any building or means of transportation.
- 23. Stipulates it is unlawful to encourage or induce an alien to come to or reside in Arizona if the person knows or recklessly disregards the fact that such coming to, entering or residing in this state is or will be in violation of law.
- 24. Subjects a means of transportation used in the commission of a violation to mandatory vehicle immobilization or impoundment.

25. Classifies these offenses as class 1 misdemeanors and subjects offenders to fines of at least \$1,000, except that a violation that involves 10 or more illegal aliens is a class 6 felony with a fine of at least \$1,000 for each alien who is involved.

Investigations of Employers

26. Allows the county attorney, in investigations of employers who are alleged to have knowingly or intentionally hired unauthorized aliens, to take evidence, administer oaths or affirmations, issue subpoenas requiring attendance and testimony of witnesses and cause depositions to be taken. *know not*

27. Exempts proceedings held during the course of a confidential investigation from open meeting laws. *ditto?*

28. Stipulates that an employer is not entrapped in an investigation if the employer was predisposed to knowingly or intentionally employ an unauthorized alien and law enforcement officers or their agents merely provided the employer with an opportunity to do so.

29. States that it is not entrapment for law enforcement officers or their agents merely to use a ruse or to conceal their identities. *entrapment as aff defense = change to existing law*

30. Directs employers to keep verification records of their employees' work eligibility through E-Verify. *set up?*

- 31. Establishes a class 3 felony for failing to:
 - a) verify employment eligibility through E-Verify or
 - b) keep records of verifications.

Miscellaneous

32. Specifies that monies in the special GIITEM subaccount are subject to legislative appropriation for distribution for gang and immigration enforcement and for county jail reimbursement costs relating to immigration.

33. Stipulates that the terms of the act regarding immigration have the meanings given to them under federal immigration law.

34. Requires the act to be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of U.S. citizens.

35. Contains intent and severability clauses.

36. Titles the legislation the "Support Our Law Enforcement and Safe Neighborhoods Act."

37. Makes conforming changes.

38. Becomes effective on the general effective date.

Prepared by Senate Research
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AO/ly