

By: Senator(s) Fillingane, Burton,
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To: Judiciary, Division A

SENATE BILL NO. 2179

1 AN ACT TO CREATE THE MISSISSIPPI SUPPORT OUR LAW ENFORCEMENT
2 AND SAFE NEIGHBORHOODS ACT OF 2011; TO SET FORTH LEGISLATIVE
3 INTENT AND SHORT TITLE; TO REQUIRE COOPERATION AND ASSISTANCE IN
4 ENFORCEMENT OF IMMIGRATION LAWS AND TO INDEMNIFY LAW ENFORCEMENT
5 OFFICERS FOR IMPLEMENTATION OF THIS ACT; TO CREATE THE OFFENSE OF
6 WILLFUL FAILURE TO COMPLETE OR CARRY AN ALIEN REGISTRATION
7 DOCUMENT; TO AMEND SECTION 97-3-54.1, MISSISSIPPI CODE OF 1972, TO
8 AUTHORIZE A LAW ENFORCEMENT OFFICER TO STOP ANY PERSON IN
9 VIOLATION OF TRAFFIC LAWS IN THE ENFORCEMENT OF THE MISSISSIPPI
10 EMPLOYMENT PROTECTION ACT; TO CREATE THE OFFENSE OF UNLAWFUL
11 STOPPING TO HIRE AND PICK UP PASSENGERS FOR WORK; TO CREATE THE
12 OFFENSE OF UNLAWFUL TRANSPORT, CONCEALMENT OR HARBORING OF
13 UNLAWFUL ALIENS; TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF
14 1972, TO PROVIDE FOR THE ARREST WITHOUT WARRANT OF A PERSON
15 REASONABLY BELIEVED TO HAVE COMMITTED ANY PUBLIC OFFENSE THAT
16 MAKES THE PERSON REMOVABLE FROM THE UNITED STATES; TO AMEND
17 SECTION 71-11-3, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
18 RETENTION OF E-VERIFY CONFIRMATIONS FOR AT LEAST 3 YEARS, TO
19 PROVIDE TO AN EMPLOYER THE AFFIRMATIVE DEFENSE OF ENTRAPMENT, AND
20 TO CLARIFY ENFORCEMENT AND PENALTIES UNDER THE MISSISSIPPI
21 EMPLOYMENT PROTECTION ACT; TO AMEND SECTION 31-5-17, MISSISSIPPI
22 CODE OF 1972, TO REQUIRE LABOR USED ON PUBLIC WORKS TO BE
23 PERFORMED BY WORKMEN AND LABORERS WHO ARE LEGAL CITIZENS OF THE
24 UNITED STATES OR LEGAL ALIENS; TO AMEND SECTION 31-5-19,
25 MISSISSIPPI CODE OF 1972, TO REQUIRE PUBLIC WORK CONTRACTS TO
26 INCLUDE A PROVISION REQUIRING THE CONTRACTOR TO BE IN COMPLIANCE
27 WITH FEDERAL AND STATE LAWS; TO AMEND SECTION 31-5-21, MISSISSIPPI
28 CODE OF 1972, TO REVISE THE PENALTY FOR VIOLATING SUCH LABOR
29 REQUIREMENTS ON PUBLIC WORKS; TO REQUIRE THE IMMOBILIZATION OR
30 IMPOUNDMENT OF A VEHICLE OPERATED IN FURTHERANCE OF VIOLATIONS
31 UNDER THIS ACT; TO CREATE THE SPECIAL FUND TO BE KNOWN AS THE GANG
32 AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND; TO
33 PROVIDE FOR SEVERABILITY, IMPLEMENTATION AND CONSTRUCTION; AND FOR
34 RELATED PURPOSES.

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

36 **SECTION 1. Legislative intent and short title.** (1) The
37 Legislature finds that there is a compelling interest in the
38 cooperative enforcement of federal immigration laws throughout all
39 of Mississippi. The Legislature declares that the intent of this
40 act is to make attrition through enforcement the public policy of
41 all state agencies and local governments in Mississippi. The



42 provisions of this act are intended to work together to discourage
43 and deter the unlawful entry and presence of aliens and economic
44 activity by persons unlawfully present in the United States.

45 (2) Sections 1, 2, 3, 5, 6, 12, 13 and 14 of this act may be
46 cited as the "Support Our Law Enforcement and Safe Neighborhoods
47 Act."

48 **SECTION 2. Cooperation and assistance in enforcement of**
49 **immigration laws; indemnification.** (1) No official or agency of
50 this state or a political subdivision of this state may limit or
51 restrict the enforcement of federal immigration laws to less than
52 the full extent permitted by federal law.

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

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



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

76 (c) A valid tribal enrollment card or other form of
77 tribal identification.

78 (d) If the entity requires proof of legal presence in
79 the United States before issuance, any valid United States
80 federal, state or local government issued identification.

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

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

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

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

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

105 (6) Except as provided in federal law, officials or agencies
106 of this state and political subdivisions of this state may not be



107 prohibited or in any way be restricted from sending, receiving or
108 maintaining information relating to the immigration status, lawful
109 or unlawful, of any individual or exchanging that information with
110 any other federal, state or local governmental entity for the
111 following official purposes:

112 (a) Determining eligibility for any public benefit,
113 service or license provided by any federal, state, local or other
114 political subdivision of this state.

115 (b) Verifying any claim of residence or domicile if
116 determination of residence or domicile is required under the laws
117 of this state or a judicial order issued pursuant to a civil or
118 criminal proceeding in this state.

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

123 (d) Pursuant to 8 USC Section 1373 and 8 USC Section
124 1644.

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

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



139 the policy has remained in effect after the filing of an action
140 pursuant to this subsection.

141 (9) A court shall collect the civil penalty prescribed in
142 subsection (8) of this section and remit the civil penalty to the
143 State Treasurer for deposit in the Gang and Immigration
144 Intelligence Team Enforcement Mission Fund established by Section
145 13 of Senate Bill No. 2179, 2011 Regular Session.

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

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

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

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

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



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

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

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

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

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

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

193 (7) Any record that relates to the immigration status of a
194 person is admissible in any court without further foundation or
195 testimony from a custodian of records if the record is certified
196 as authentic by the government agency that is responsible for
197 maintaining the record.

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

202 **SECTION 4.** Section 97-3-54.1, Mississippi Code of 1972, is
203 amended as follows:



204 97-3-54.1. (1) (a) A person who recruits, entices,
205 harbors, transports, provides or obtains by any means, or attempts
206 to recruit, entice, harbor, transport, provide or obtain by any
207 means, another person, intending or knowing that the person will
208 be subjected to forced labor or services, shall be guilty of the
209 crime of human-trafficking.

210 (b) A person who knowingly subjects, or attempts to
211 subject, another person to forced labor or services shall be
212 guilty of the crime of procuring involuntary servitude.

213 (c) A person who knowingly subjects, or attempts to
214 subject, or who recruits, entices, harbors, transports, provides
215 or obtains by any means, or attempts to recruit, entice, harbor,
216 transport, provide or obtain by any means, a minor, knowing that
217 the minor will engage in commercial sexual activity, sexually
218 explicit performance, or the production of sexually oriented
219 material, or causes or attempts to cause a minor to engage in
220 commercial sexual activity, sexually explicit performance, or the
221 production of sexually oriented material, shall be guilty of
222 procuring sexual servitude of a minor and shall be punished by
223 commitment to the custody of the Department of Corrections for not
224 more than thirty (30) years.

225 (2) A person who is convicted of an offense set forth in
226 subsection (1)(a) or (b) of this section, or who benefits, whether
227 financially or by receiving anything of value, from participation
228 in a venture that has engaged in an act described in this section,
229 shall be committed to the custody of the Department of Corrections
230 for not more than twenty (20) years.

231 (3) Notwithstanding any other law, in the enforcement of
232 this section, a peace officer may lawfully stop any person who is
233 operating a motor vehicle if the officer has reasonable suspicion
234 to believe that the person is in violation of any civil traffic
235 law.



236 **SECTION 5. Unlawful stopping to hire and pick up passengers**

237 **for work; unlawful application or solicitation for employment.**

238 (1) It is unlawful for an occupant of a motor vehicle that is
239 stopped on a street, roadway or highway to attempt to hire or hire
240 and pick up passengers for work at a different location if the
241 motor vehicle blocks or impedes the normal movement of traffic.

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

247 (3) A law enforcement official or agency of this state, a
248 county or a municipality may not consider race, color or national
249 origin in the enforcement of this section except to the extent
250 permitted by the United States or Mississippi Constitution.

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

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

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

259 (5) A violation of this section is a misdemeanor.

260 (6) For purposes of this section, "unauthorized alien" means
261 an alien who does not have the legal right or authorization under
262 federal law to work in the United States as described in 8 USC
263 Section 1324a(h) (3).

264 **SECTION 6. Unlawful transporting, moving, concealing,**
265 **harboring or shielding of unlawful aliens; vehicle impoundment;**
266 **exception; classification.** (1) It is unlawful for a person to:

267 (a) Transport or move or attempt to transport or move
268 an alien in this state, in furtherance of the illegal presence of



269 the alien in the United States, in a means of transportation if
270 the person knows or recklessly disregards the fact that the alien
271 has come to, has entered or remains in the United States in
272 violation of law.

273 (b) Conceal, harbor or shield or attempt to conceal,
274 harbor or shield an alien from detection in any place in this
275 state, including any building or any means of transportation, if
276 the person knows or recklessly disregards the fact that the alien
277 has come to, has entered or remains in the United States in
278 violation of law.

279 (c) Encourage or induce an alien to come to or reside
280 in this state if the person knows or recklessly disregards the
281 fact that such coming to, entering or residing in this state is or
282 will be in violation of law.

283 (2) A means of transportation that is used in the commission
284 of a violation of this section is subject to mandatory vehicle
285 immobilization or impoundment pursuant to Section 12 of Senate
286 Bill No. 2179, 2011 Regular Session.

287 (3) A law enforcement official or agency of this state, a
288 county or a municipality may not consider race, color or national
289 origin in the enforcement of this section except to the extent
290 permitted by the United States or Mississippi Constitution.

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

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

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

299 (5) This section does not apply to a child protective
300 services worker acting in the worker's official capacity or a
301 person who is acting in the capacity of a first responder, an



302 ambulance attendant or an emergency medical technician and who is
303 transporting or moving an alien in this state pursuant to Title
304 41, Mississippi Code of 1972.

305 (6) A person who violates this section is guilty of a
306 misdemeanor and is subject to a fine in an amount of not less than
307 One Thousand Dollars (\$1,000.00), except in a court having a lower
308 maximum jurisdiction, and except that a violation of this section
309 that involves ten (10) or more illegal aliens is a felony
310 punishable by imprisonment in the custody of the Department of
311 Corrections for not less than one (1) nor more than two (2) years,
312 and the person is subject to a fine of not less than One Thousand
313 Dollars (\$1,000.00) for each alien who is involved.

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

316 99-3-7. (1) An officer or private person may arrest any
317 person without warrant, for an indictable offense committed, or a
318 breach of the peace threatened or attempted in his presence; or
319 when a person has committed a felony, though not in his presence;
320 or when a felony has been committed, and he has reasonable ground
321 to suspect and believe the person proposed to be arrested to have
322 committed it; or on a charge, made upon reasonable cause, of the
323 commission of a felony by the party proposed to be arrested. And
324 in all cases of arrests without warrant, the person making such
325 arrest must inform the accused of the object and cause of the
326 arrest, except when he is in the actual commission of the offense,
327 or is arrested on pursuit.

328 (2) Any law enforcement officer may arrest any person on a
329 misdemeanor charge without having a warrant in his possession when
330 a warrant is in fact outstanding for that person's arrest and the
331 officer has knowledge through official channels that the warrant
332 is outstanding for that person's arrest. In all such cases, the
333 officer making the arrest must inform such person at the time of
334 the arrest the object and cause therefor. If the person arrested



335 so requests, the warrant shall be shown to him as soon as
336 practicable.

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

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

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



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

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

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

375 (iv) Evidence from witnesses of the domestic
376 violence.

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

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

384 (4) (a) Any person authorized by a court of law to
385 supervise or monitor a convicted offender who is under an
386 intensive supervision program may arrest the offender when the
387 offender is in violation of the terms or conditions of the
388 intensive supervision program, without having a warrant, provided
389 that the person making the arrest has been trained at the Law
390 Enforcement Officers Training Academy established under Section
391 45-5-1 et seq., or at a course approved by the Board on Law
392 Enforcement Officer Standards and Training.

393 (b) For the purposes of this subsection, the term
394 "intensive supervision program" means an intensive supervision
395 program of the Department of Corrections as described in Section
396 47-5-1001 et seq., or any similar program authorized by a court
397 for offenders who are not under jurisdiction of the Department of
398 Corrections.



399 (5) A peace officer, without a warrant, may arrest a person
400 if the officer has probable cause to believe that the person to be
401 arrested has committed any public offense that makes the person
402 removable from the United States.

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

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

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

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

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

430 (8) A law enforcement officer shall not be held liable in
431 any civil action for an arrest based on probable cause and in good



432 faith pursuant to subsection (3) of this section, or failure, in
433 good faith, to make an arrest pursuant to subsection (3) of this
434 section.

435 **SECTION 8.** Section 71-11-3, Mississippi Code of 1972, is
436 amended as follows:

437 71-11-3. (1) This chapter shall be known as the
438 "Mississippi Employment Protection Act."

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

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

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

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

452 (c) "Third-party employer" is any person or company
453 that provides workers for another person or company. This
454 includes, but is not limited to, leasing companies and contract
455 employers.

456 (d) "Status verification system" means the electronic
457 verification of work authorization program of the Illegal
458 Immigration Reform and Immigration Responsibility Act of 1996,
459 Public Law 104-208, Division C, Section 403(a); 8 USC, Section
460 1324a, and operated by the United States Department of Homeland
461 Security, known as the E-Verify Program.

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



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

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

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

475 (i) "Solicit" means communication, whether verbally or
476 nonverbally by a gesture or a nod, that would indicate to a
477 reasonable person that a person is willing to be employed.

478 (4) (a) Employers in the State of Mississippi shall only
479 hire employees who are legal citizens of the United States of
480 America or are legal aliens. * * * An employer that knowingly or
481 intentionally uses a third-party employer to obtain the labor of
482 an unauthorized alien in this state violates this subsection.

483 (b) (i) The Attorney General shall prescribe a
484 complaint form for a person to allege a violation of subsection
485 (4) (a) of this section. The complainant shall not be required to
486 list the complainant's social security number on the complaint
487 form or to have the complaint form notarized. On receipt of a
488 complaint on a prescribed complaint form that an employer
489 allegedly knowingly or intentionally employs an unauthorized
490 alien, the Attorney General or district attorney shall investigate
491 whether the employer has violated subsection (4) (a) of this
492 section. If a complaint is received but is not submitted on a
493 prescribed complaint form, the Attorney General or district
494 attorney may investigate whether the employer has violated
495 subsection (4) (a) of this section. This subsection shall not be
496 construed to prohibit the filing of anonymous complaints that are



497 not submitted on a prescribed complaint form. The Attorney
498 General or district attorney shall not investigate complaints that
499 are based solely on race, color or national origin. A complaint
500 that is submitted to a district attorney shall be submitted to the
501 district attorney in the county in which the alleged unauthorized
502 alien is or was employed by the employer. The county sheriff or
503 any other local law enforcement agency may assist in investigating
504 a complaint. When investigating a complaint, the Attorney General
505 or district attorney shall verify the work authorization of the
506 alleged unauthorized alien with the federal government pursuant to
507 8 USC Section 1373(c). A state, county or local official shall
508 not attempt to independently make a final determination on whether
509 an alien is authorized to work in the United States. An alien's
510 immigration status or work authorization status shall be verified
511 with the federal government pursuant to 8 USC Section 1373(c).

512 (ii) A person who knowingly files a false or
513 frivolous complaint under this subsection is guilty of a
514 misdemeanor.

515 (c) If, after an investigation, the Attorney General or
516 district attorney determines that the complaint is not false or
517 frivolous:

518 (i) The Attorney General or district attorney
519 shall notify United States Immigration and Customs Enforcement of
520 the unauthorized alien.

521 (ii) The Attorney General or district attorney
522 shall notify the local law enforcement agency of the unauthorized
523 alien.

524 (iii) The Attorney General shall notify the
525 appropriate district attorney to bring an action pursuant to
526 paragraph (d) of this subsection if the complaint was originally
527 filed with the Attorney General.

528 (d) An action for a violation of subsection (4) (a) of
529 this section shall be brought against the employer by the district



530 attorney in the county where the unauthorized alien employee is or
531 was employed by the employer. A second violation of this section
532 shall be based only on an unauthorized alien who is or was
533 employed by the employer after an action has been brought for a
534 first violation of subsection (4)(a) of this section.

535 (e) For any action under this subsection, the court
536 shall expedite the action, including assigning the hearing at the
537 earliest practicable date.

538 (f) On a finding of a violation of subsection (4)(a) of
539 this section:

540 (i) For a first violation as defined in this
541 section, the court:

542 1. Shall order the employer to terminate the
543 employment of all unauthorized aliens.

544 2. Shall order the employer to be subject to
545 a three-year probationary period for the business location where
546 the unauthorized alien performed work. During the probationary
547 period, the employer shall report quarterly reports to the
548 district attorney for each new employee who is hired by the
549 employer at the business location where the unauthorized alien
550 performed work the following: the name, address and social
551 security number of each employee hired and the name, address and
552 federal tax identification number for the employer. The district
553 attorney shall redact all identifying information from the public
554 record except for the employer's name and address.

555 3. Shall order the employer to file a signed
556 sworn affidavit with the district attorney within three (3)
557 business days after the order is issued. The affidavit shall
558 state that the employer has terminated the employment of all
559 unauthorized aliens in this state and that the employer will not
560 intentionally or knowingly employ an unauthorized alien in this
561 state. The court shall order the appropriate agencies and
562 entities to suspend all licenses subject to subsection (7) of this



563 section that are held by the employer if the employer fails to
564 file a signed sworn affidavit with the district attorney within
565 three (3) business days after the order is issued. All licenses
566 that are suspended under this item 3 shall remain suspended until
567 the employer files a signed sworn affidavit with the district
568 attorney. Notwithstanding any other law, upon filing of the
569 affidavit, the suspended licenses shall be reinstated immediately
570 by the appropriate agencies. For the purposes of this item 3, the
571 licenses that are subject to suspension under subsection (7) are
572 all licenses that are held by the employer specific to the
573 business location where the unauthorized alien performed work. If
574 the employer does not hold a license specific to the business
575 location where the unauthorized alien performed work, but a
576 license is necessary to operate the employer's business in
577 general, the licenses that are subject to suspension under this
578 item 3 are all licenses that are held by the employer at the
579 employer's primary place of business. On receipt of the court's
580 order and notwithstanding any other law, the appropriate agencies
581 and entities shall suspend the licenses according to the court's
582 order. The court shall send a copy of the court's order to the
583 Attorney General and the Attorney General shall maintain the copy.

584 4. May order the appropriate agencies to
585 suspend all licenses described in subsection (7) of this section
586 that are held by the employer for a period not to exceed ten (10)
587 business days. The court shall base its decision to suspend under
588 this item 4 on any evidence or information submitted to it during
589 the action for a violation of this subsection and shall consider
590 the following factors, if relevant: The number of unauthorized
591 aliens employed by the employer; any prior misconduct by the
592 employer; the degree of harm resulting from the violation; whether
593 the employer made good-faith efforts to comply with any applicable
594 requirements; the duration of the violation; the role of the



595 directors, officers or principals of the employer in the
596 violation; and any other factors the court deems appropriate.

597 (ii) For a second violation as described in this
598 section, the court shall order the appropriate agencies to
599 permanently revoke all licenses that are held by the employer
600 specific to the business location where the unauthorized alien
601 performed work. If the employer does not hold a license specific
602 to the business location where the unauthorized alien performed
603 work, but a license is necessary to operate the employer's
604 business in general, the court shall order the appropriate
605 agencies to permanently revoke all licenses that are held by the
606 employer at the employer's primary place of business. On receipt
607 of the order and notwithstanding any other law, the appropriate
608 agencies shall immediately revoke the licenses.

609 (iii) The violation shall be considered:

610 1. A first violation by an employer at a
611 business location if the violation did not occur during a
612 probationary period ordered by the court under this subsection for
613 that employer's business location.

614 2. A second violation by an employer at
615 a business location if the violation occurred during a
616 probationary period ordered by the court under this subsection for
617 that employer's business location.

618 (g) The Attorney General shall maintain copies of court
619 orders that are received pursuant to paragraph (f) of this
620 subsection and shall maintain a database of the employers and
621 business locations that have a first violation of subsection
622 (4) (a) of this section and make the court orders available on the
623 Attorney General's Web site.

624 (h) On determining whether an employee is an
625 unauthorized alien, the court shall consider only the federal
626 government's determination pursuant to 8 USC Section 1373(c). The
627 federal government's determination creates a rebuttable



628 presumption of the employee's lawful status. The court may take
629 judicial notice of the federal government's determination and may
630 request the federal government to provide automated or testimonial
631 verification pursuant to 8 USC Section 1373(c).

632 (i) For the purposes of this section, proof of
633 verifying the employment authorization of an employee through the
634 status verification program creates a rebuttable presumption that
635 an employer did not knowingly employ an unauthorized alien.

636 (j) For the purposes of this section, an employer that
637 establishes that it has complied in good faith with the
638 requirements of 8 USC Section 1324a(b) establishes an affirmative
639 defense that the employer did not knowingly employ an unauthorized
640 alien. An employer is considered to have complied with the
641 requirements of 8 USC Section 1324a(b), notwithstanding an
642 isolated, sporadic or accidental technical or procedural failure
643 to meet the requirements, if there is a good-faith attempt to
644 comply with the requirements.

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

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

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

659 (l) (i) Every employer who is subject to the
660 provisions of this chapter shall file an annual report with the



661 State Auditor stating the number of new employees who were hired
662 by the employer at a business location within this state. The
663 report shall state the name, address and federal tax
664 identification number for the employer and whether each new hire
665 was subjected to verification of status through the status
666 verification system.

667 (ii) The annual reports required by this paragraph
668 shall be filed on the 15th of February for the preceding calendar
669 year and shall be posted on the Auditor's Web site not later than
670 fifteen (15) days after filing. The Auditor shall redact all
671 identifying information from the public record except for the
672 employer's name and address.

673 (ii) The annual report shall be verified under
674 penalty of perjury.

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

677 (n) (i) It shall be a discriminatory practice for an
678 employer to discharge an employee working in Mississippi who is a
679 United States citizen or permanent resident alien while retaining
680 an employee who the employing entity knows, or reasonably should
681 have known, is an unauthorized alien hired after July 1, 2008, and
682 who is working in Mississippi in a job category that requires
683 equal skill, effort and responsibility, and which is performed
684 under similar working conditions, as defined by 29 USC, Section
685 206(d) (1), as the job category held by the discharged employee.

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



692 (iii) No cause of action for a violation of this
693 paragraph shall lie under any other Mississippi law but shall
694 arise solely from the provisions of this paragraph.

695 (5) Any employer that complies with the requirements of this
696 section shall be held harmless by the Mississippi Department of
697 Employment Security, provided the employer is not directly
698 involved in the creation of any false documents, and provided that
699 the employer did not knowingly and willfully accept false
700 documents from the employee.

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

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

708 (7) (a) * * * All employers shall meet verification
709 requirements not later than July 1, 2011.

710 (b) (i) Any employer violating the provisions of this
711 section shall be subject to the cancellation of any state or
712 public contract, resulting in ineligibility for any state or
713 public contract for up to three (3) years, the loss of any
714 license, permit, certificate or other document granted to the
715 employer by any agency, department or government entity in the
716 State of Mississippi for the right to do business in Mississippi
717 for up to one (1) year, or both.

718 (ii) The contractor or employer shall be liable
719 for any additional costs incurred by the agencies and institutions
720 of the State of Mississippi, or any of its political subdivisions,
721 because of the cancellation of the contract or the loss of any
722 license or permit to do business in the state.

723 (iii) Any person or entity penalized under this
724 paragraph shall have the right to appeal to the appropriate entity



725 imposing sanctions or to the circuit court of competent
726 jurisdiction.

727 (c) The Department of Employment Security, Department
728 of Revenue, Secretary of State, Department of Human Services, the
729 Attorney General and any other agency, department or government
730 entity shall have the authority to impose sanctions or seek
731 penalties authorized under this section * * *.

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

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

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

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

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

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

753 (c) (i) It shall be a felony for any person to accept
754 or perform employment for compensation knowing or in reckless
755 disregard that the person is an unauthorized alien with respect to
756 employment during the period in which the unauthorized employment
757 occurred. Upon conviction, a violator shall be subject to



758 imprisonment in the custody of the Department of Corrections for
759 not less than one (1) year nor more than five (5) years, a fine of
760 not less than One Thousand Dollars (\$1,000.00) nor more than Ten
761 Thousand Dollars (\$10,000.00), or both.

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

767 (d) It is a misdemeanor for a person who is unlawfully
768 present in the United States and who is an unauthorized alien to
769 knowingly apply for work or solicit work in a public place in this
770 state.

771 (9) (a) It is an affirmative defense to a violation of
772 subsection (4) of this section that the employer was entrapped.
773 To claim entrapment, the employer must admit by the employer's
774 testimony or other evidence the substantial elements of the
775 violation. An employer who asserts an entrapment defense has the
776 burden of proving the following by a preponderance of the
777 evidence:

778 (i) The idea of committing the violation started
779 with law enforcement officers or their agents rather than with the
780 employer.

781 (ii) The law enforcement officers or their agents
782 urged and induced the employer to commit the violation.

783 (iii) The employer was not predisposed to commit
784 the violation before the law enforcement officers or their agents
785 urged and induced the employer to commit the violation.

786 (b) An employer does not establish entrapment if the
787 employer was predisposed to violate paragraph (a) of this
788 subsection and the law enforcement officers or their agents merely
789 provided the employer with an opportunity to commit the violation.
790 It is not entrapment for law enforcement officers or their agents



791 merely to use a ruse or to conceal their identity. The conduct of
792 law enforcement officers and their agents may be considered in
793 determining if an employer has proven entrapment.

794 **SECTION 9.** Section 31-5-17, Mississippi Code of 1972, is
795 amended as follows:

796 31-5-17. Every public officer, contractor, superintendent,
797 or agent engaged in or in charge of the construction of any state
798 or public building or public work of any kind for the State of
799 Mississippi or for any board, city commission, governmental
800 agency, or municipality of the State of Mississippi shall employ
801 only workmen and laborers who are legal citizens of the United
802 States of America or are legal aliens. For purposes of this
803 section, a legal alien is an individual who was lawfully admitted
804 at the time such services were performed, was lawfully present for
805 purposes of performing such services, or was permanently residing
806 in the United States under color of law at the time such services
807 were performed (including an alien who was lawfully present in the
808 United States as a result of the application of Section 207, 208
809 or 212(d) (5) of the Immigration and Nationality Act). In cases
810 where the work is being lawfully conducted outside the United
811 States of America, the utilization of workmen and laborers shall
812 be in strict compliance with the laws of the country in which the
813 work is conducted.

814 **SECTION 10.** Section 31-5-19, Mississippi Code of 1972, is
815 amended as follows:

816 31-5-19. All contracts entered into by agencies and
817 institutions of the State of Mississippi, or any of its political
818 subdivisions, shall include a provision requiring the contractor
819 to be in compliance during the term of the contract with all
820 federal and state laws, including, but not limited to, Section
821 31-5-17. A knowing or willing failure to comply with such
822 provision shall be grounds for cancellation by the agencies and
823 institutions of the State of Mississippi, or any of its political



824 subdivisions, of all contracts held with the contractor. In
825 addition to the cancellation of the contract, the contractor shall
826 be liable for any additional costs incurred by the agencies and
827 institutions of the State of Mississippi, or any of its political
828 subdivisions, because of the cancellation.

829 **SECTION 11.** Section 31-5-21, Mississippi Code of 1972, is
830 amended as follows:

831 31-5-21. Any contractor, public officer, superintendent,
832 agent, or person in charge of such work, who shall violate any of
833 the provisions of Section 31-5-17, shall be liable upon conviction
834 before a court of competent jurisdiction to a fine of not more
835 than One Hundred Dollars (\$100.00) or to imprisonment of not more
836 than sixty (60) days, or both, at the discretion of the court; and
837 every day's employment of each workman or laborer in such
838 violation shall constitute a separate offense.

839 However, if the contract for such work includes the provision
840 required by Section 31-5-19 and the public officer makes a
841 reasonable effort to ensure compliance with that provision, the
842 public officer shall not be subject to the fine or imprisonment.

843 **SECTION 12.** A peace officer shall cause the removal and
844 either immobilization or impoundment of a vehicle if the peace
845 officer determines that a person is driving the vehicle in
846 furtherance of the illegal presence of an alien in the United
847 States and in violation of a criminal offense, the person is
848 transporting or moving or attempting to transport or move an alien
849 in this state in a vehicle if the person knows or recklessly
850 disregards the fact that the alien has come to, has entered or
851 remains in the United States in violation of law, or the person is
852 concealing, harboring or shielding or attempting to conceal,
853 harbor or shield from detection an alien in this state in a
854 vehicle if the person knows or recklessly disregards the fact that
855 the alien has come to, entered or remains in the United States in
856 violation of law.



857 **SECTION 13.** (1) The Department of Public Safety shall
858 implement a Gang and Immigration Intelligence Team Enforcement
859 Mission (GIITEM) that will allow state and local law enforcement,
860 court personnel, prosecutors and other agencies to participate in
861 uniform law enforcement in a manner consistent with federal laws
862 regulating immigration, protecting the civil rights of all persons
863 while respecting the privileges and immunities of United States
864 citizens, and for reimbursement to county jails of costs relating
865 to immigration.

866 (2) There is created in the State Treasury a special fund to
867 be known as the Gang and Immigration Intelligence Team Enforcement
868 Mission Fund. The purpose of the fund shall be to provide funding
869 for the Gang and Immigration Intelligence Team Enforcement
870 Mission. Monies from the fund shall be distributed by the State
871 Treasurer upon warrants issued by the Department of Public Safety.
872 The fund shall be a continuing fund, not subject to fiscal-year
873 limitations, and shall consist of:

- 874 (a) Monies appropriated by the Legislature;
- 875 (b) The interest accruing to the fund;
- 876 (c) Monies received under the provisions of Section
877 2(a) of Senate Bill No. 2179, 2011 Regular Session;
- 878 (d) Monies received from the federal government;
- 879 (e) Donations; and
- 880 (f) Monies received from such other sources as may be
881 provided by law.

882 **SECTION 14.** All law enforcement officers of this state are
883 authorized to assist federal agencies in the enforcement of
884 federal immigration law.

885 **SECTION 15.** (1) If a provision of this act or its
886 application to any person or circumstance is held invalid, the
887 invalidity does not affect other provisions or applications of the
888 act that can be given effect without the invalid provision or



889 application, and to this end the provisions of this act are
890 severable.

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

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

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

902 **SECTION 16.** This act shall take effect and be in force from
903 and after July 1, 2011.

