

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

JIMMY STUBBS, in his official capacity as
Elmore County Probate Judge,

Defendants.

Civil Action No.
2:11-cv-00982-MHT-CSC

**FIRST AMENDED COMPLAINT
FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
FOR DAMAGES**

CLASS ACTION

NATURE OF THE ACTION

1. This is a civil rights action for declaratory and injunctive relief brought by Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., John Doe #1, and John Doe #2 for violations of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq., and the Supremacy Clause and Due Process Clause of the U.S. Constitution.

2. Plaintiff John Doe #1 is an undocumented immigrant from Mexico. He owns and resides in a manufactured home in Elmore County, Alabama, along with his partner, five-year-old U.S.-citizen son, and sixteen-year-old nephew.

3. Plaintiff John Doe #2 is an undocumented immigrant from Mexico. Like Plaintiff Doe #1, Plaintiff Doe #2 owns and resides in a manufactured home in Elmore County, along with his partner, his five-year-old U.S.-citizen son, and his partner's parents and three brothers.

4. This action is brought against Defendant Julie Magee in her official capacity as Alabama Revenue Commissioner and Defendant Jimmy Stubbs in his official capacity as the Probate Judge of Elmore County, Alabama.

5. Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Laws 535 (commonly referred to as "HB 56"), forbids "[a]n alien not lawfully present in the United States" from entering into or attempting to enter into "any transaction . . . [with] the state or a political subdivision of the state," with the sole exception of obtaining a marriage license.¹ It further forbids any person from entering into or attempting to enter into such a transaction on behalf of an "alien not lawfully present in the United States." An individual found in violation of Section 30 can be convicted of a Class C felony and subjected to up to ten years' imprisonment.

6. Section 40-12-255 of the Alabama Code requires that all individuals who own, maintain, or keep a manufactured home in Alabama engage in a "transaction" with the State, within the meaning of Section 30 of HB 56. Specifically, by no later than November 30 of each calendar year, any such person must pay an annual registration fee and display a current identification decal in a conspicuous location on the outside of her manufactured home. Section 40-12-255 imposes progressive fines and penalties for non-compliance, including imprisonment.

¹ A copy of the enrolled Bill is attached as Attachment 1. HB 56 has not been codified yet but is unofficially reported in electronic databases at Ala. Code § 31-13-1 *et seq.* (West 2011) and Ala. Code § 31-9C-1 *et seq.* (Michie/LexisNexis 2011).

7. Defendants Magee and Stubbs have adopted and implemented a policy, pursuant to the requirements of Section 30 of HB 56, to reject annual manufactured home registration payments from, and thus deny identification decals to, individuals who are unable to demonstrate U.S. citizenship or lawful immigration status. In other words, Defendants' policy treats the act of complying with Alabama Code § 40-12-255 as a "business transaction" under HB 56 Section 30.

8. Until the passage and implementation of Section 30 of HB 56, Plaintiffs Doe #1 and Doe #2 were allowed to register their manufactured homes pursuant to Alabama Code Section 40-12-255.

9. Defendants' policy for enforcing HB 56 Section 30 makes it impossible for Plaintiffs Doe #1 and Doe #2 to make the annual registration payment and obtain current identification decals for their manufactured homes, as they are required to do under Alabama Code Section 40-12-255 by no later than November 30, 2011. If Plaintiffs Doe #1 and Doe #2 attempt to pay their annual registration fees in order to obtain current identification decals, they could face Class C felony charges for attempting to enter into a transaction with the State, in violation of HB 56 Section 30. But if Plaintiffs Doe #1 and Doe #2 do not pay the annual registration fee and do not display a current identification decal by November 30, 2011, they will face fines, penalties, and Class C misdemeanor charges for violating the Manufactured Homes statute, Alabama Code Sec. 40-12-255.

10. Defendants' policy of enforcing HB 56 Section 30 further makes it impossible for Plaintiffs Doe #1 and Doe #2 to move their manufactured homes on public roads in Alabama. Under subsection (j) of the Manufactured Homes Statute, a permit is required to make such a move, yet any effort to obtain a moving permit would also constitute a "business transaction"

within the meaning of Section 30 of HB 56. Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor under Alabama Code Section 40-12-255(j)(4).

11. Section 27 of HB 56 makes unenforceable in Alabama courts virtually any contract that takes more than 24 hours to complete and is entered into where the parties know or should have known that one of them is a non-U.S. citizen who lacks proof of lawful immigration status.

12. In the event of eviction from the manufactured home parks where they currently reside, Plaintiffs Doe #1 and Doe #2 may therefore be forced to abandon their homes because under HB 56 they cannot lawfully move them, and any sale contract may be unenforceable.

13. Plaintiffs Doe #1 and Doe #2 bring this case on behalf of themselves and a Class of similarly situated residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

14. Plaintiffs Doe #1 and Doe #2 also bring this case on behalf of themselves and a Subclass of similarly situated Latino residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

15. Defendants' policy of enforcing Section 30 so as to refuse annual registration payments from and to deny manufactured home identification decals to individuals who cannot demonstrate U.S. citizenship or lawful immigration status will cause immediate and irreparable harm to Plaintiffs Doe #1 and Doe #2 and their families, as well as to similarly situated individuals who own, maintain, or keep manufactured homes in Alabama.

16. Defendants' policy of enforcing Section 30 so as to refuse to accept annual registration payments from, and to deny manufactured home identification decals to, members of

the Class and Subclass has injured and will continue to injure organizational Plaintiffs Central Alabama Fair Housing Action Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. These Plaintiffs have already diverted and will be forced to continue to divert scarce resources away from their core activities in order to conduct education, outreach, and advocacy on behalf of communities throughout Alabama concerning the impact of HB 56 Section 30 on immigrants who live in manufactured homes and who face fines, penalties, and the threat of criminal prosecution if they cannot pay their annual registration fees and receive the required identification decals.

17. Defendants' policy pursuant to HB 56 of refusing annual registration payments from and denying current identification decals to individuals who live in manufactured homes and who cannot show proof of U.S. citizenship or lawful immigration status violates the Fair Housing Act, the Supremacy Clause of the U.S. Constitution, and the Due Process Clause of the U.S. Constitution.

JURISDICTION AND VENUE

18. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(4), 2201, 2202, and 42 U.S.C. § 3613(a)(1)(A).

19. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 81 and 1391(b). Defendant Magee and Defendant Stubbs reside in this State; Defendant Stubbs is employed in this District and Division as a County official; and Defendant Magee is employed in this District and Division as a State official. A substantial part of the events and omissions giving rise to Plaintiffs' claims have occurred and/or will occur in this District and Division.

PARTIES

Organizational Plaintiffs

20. The three organizational Plaintiffs collectively provide fair housing services in nearly every county within Alabama. Their core activities include advocating for equal housing opportunities, assisting victims of housing discrimination, and enforcing compliance with the federal Fair Housing Act and related fair housing laws.

21. **Plaintiff Central Alabama Fair Housing Center** (“CAFHC”) is an Alabama non-profit corporation, with its principal place of business in Montgomery, Alabama. Founded in 1995, CAFHC’s mission is to promote understanding of the Fair Housing Act and to enforce the Fair Housing Act. It advances that mission through educational activities including speaking to community groups and individuals most likely to experience housing discrimination, training housing providers in fair housing issues, and conducting intake and investigations.

22. Plaintiff CAFHC provides fair housing services in the following Alabama Counties: Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Greene, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Sumter, Tallapoosa, and Wilcox.

23. **Plaintiff Fair Housing Center of Northern Alabama** (“FHCNA”) is an Alabama non-profit corporation, with its principal place of business in Birmingham, Alabama. Plaintiff FHCNA was founded in 1993. Its mission is the elimination and eradication of housing discrimination through education and enforcement activities. FHCNA seeks to ensure that all individuals who seek housing are given fair and equal access to housing of their choice. In furtherance of this mission, Plaintiff FHCNA hosts public seminars for housing providers and community members, engages in outreach activities, undertakes investigations, and files

administrative complaints. Plaintiff FHCNA provides fair housing services in the following Alabama Counties: Blount, Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Fayette, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston.

24. **Plaintiff Center for Fair Housing, Inc.** (“CFH”) is an Alabama non-profit corporation, founded in 1998, with its principal place of business in Mobile, Alabama. CFH’s mission is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants’ rights, and fair lending practices, in order to promote healthier and more inclusive communities. Plaintiff CFH provides these fair housing services in the following Alabama Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Individual Plaintiffs

25. **Plaintiff John Doe #1** resides in Elmore County in a manufactured home that he owns. He lives with his partner and five-year-old son, who is a U.S. citizen. Plaintiff Doe #1 is originally from Mexico and came to the United States approximately eight years ago. He rents a lot for his manufactured home in Elmore, Alabama.

26. **Plaintiff John Doe #2** resides in Elmore County in a manufactured home that he owns. Plaintiff Doe #2 came to the United States from Mexico in 2002. He rents a lot for his manufactured home in Millbrook, Alabama, where he lives with his partner, their five-year-old son, and his partner’s parents and three brothers. Plaintiff Doe #2’s son is a U.S. citizen.

Defendants

27. **Defendant Julie Magee** is the Revenue Commissioner for the State of Alabama. As the head of the Alabama Department of Revenue, she is charged with carrying out the duties of the Department, which by Alabama law include “general and complete supervision and control of,” *inter alia*, “the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties.” Ala. Code § 40-2-11(1). Defendant Magee is responsible for supervising and directing the work of all state and county officials who are charged with the assessment and collection of taxes, including the manufactured home registration fee at issue in this case. She is sued in her official capacity.

28. **Defendant Jimmy Stubbs** is the Probate Judge for Elmore County, Alabama. He is responsible for collecting payments and issuing manufactured home registration decals to manufactured home owners who reside in Elmore County, pursuant to Alabama Local Law 93-702. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Alabama’s Manufactured Homes Statute

29. In Alabama, a “manufactured home” is subject to the requirements of Section 40-12-255 of the Alabama Code. Section 40-12-255(a) requires that any “person, firm, or corporation who owns, maintains, or keeps . . . a manufactured home” pay an annual registration fee and an issuance fee in order to obtain a current identification decal. The identification decal, which is designed and issued by the Alabama Department of Revenue, is color-coded to indicate the year in which it was issued and must be displayed on the outside of the manufactured home at eye level, so as to be “clearly visible from the street.” *Id.*

30. Under Alabama law, the County official with responsibility for collecting taxes and other assessments has the duty to collect the annual manufactured home registration fees, to issue identification decals, and to impose fines and penalties for late payments, unless that duty is assigned to another county official. In Elmore County, Defendant Stubbs is the County official who is assigned these responsibilities.

31. The registration fee and issuance fee are due on October 1 of each year and are considered delinquent if not paid by November 30 of each year. An individual who fails to pay the registration fee and issuance fee by November 30 will be fined a \$10 delinquent fee and a \$15 citation fee. An additional penalty is imposed if the delinquent fee and citation fee are not paid within 15 days of the first citation. Ala. Code § 40-12-255(b). An individual cannot obtain a current identification decal for his or her manufactured home until all outstanding fees and penalties have been satisfied.

32. In addition to the fines and penalties identified above in Paragraph 31, an individual who violates any provision of Section 40-12-255 is guilty of a Class C misdemeanor. Ala. Code § 40-12-255(l). Under Alabama law, a Class C misdemeanor is punishable with a three-month jail term, in addition to a fine of at least \$50 and up to \$500. *Id.*; §§ 13A-5-7 and 13A-5-12.

33. In order to obtain a permit to move a manufactured home on public roads in Alabama, a manufactured home owner must obtain a permit from the County official who administers the manufactured home registration laws in the County where the manufactured home is currently being kept. Proof of payment of the current registration fee, as well as any outstanding fines and penalties, is required to obtain a moving permit. Ala. Code § 40-12-

255(j)(1). Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor. § 40-12-255(j)(4).

34. Any state, county or municipal law-enforcement officer, or license inspector is authorized to issue citations for violations of Alabama Code Section 40-12-255, pursuant to Section 40-12-257.

B. Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535

35. On June 2, 2011, the Alabama legislature adopted the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants. This law is commonly referred to as HB 56.

1. Text of Section 30 of HB 56

36. Section 30 of HB 56 became effective on September 28, 2011.

37. Section 30 of HB 56 defines and utilizes a new legal term, a “business transaction.” HB 56 § 30(a). The term “business transaction” is defined as “*any* transaction between a person and the state or a political subdivision of the state,” with the only exception being for marriage licenses. *Id.* (emphasis added).

38. The term “business transaction” is vaguely defined in exceptionally broad and misleading terms. As defined by statute, it is not limited to transactions involving “business.”

39. The term “business transaction” is broad enough to include numerous transactions with state and local officials that relate to housing, the ability to rent or buy housing, and the provision of services and facilities in connection with housing, therefore implicating compliance with the federal Fair Housing Act and other civil rights laws.

40. Section 30 of HB 56 makes it a Class C felony—punishable by up to ten years’ imprisonment, *see* Ala. Code § 13A-5-6—for an “unlawfully present alien” to enter or attempt to enter into virtually any transaction with the state or local government agency. HB 56 § 30(b), (d).

41. Section 30 of HB 56 also prohibits a third party from entering or attempting to enter into virtually any transaction with the State or a political subdivision on behalf of an alien not lawfully present in the United States, again at penalty of a Class C felony conviction. *Id.*

42. Section 30 of HB 56 provides that any person entering or attempting to enter into a transaction with the State or a political subdivision of the state shall be required to demonstrate to the person conducting the transaction on behalf of the state/political subdivision that the applicant is a U.S. citizen, or, if he or she is an alien, that he or she has lawful presence in the United States. HB 56 § 30(c).

43. Section 30 of HB 56 further provides that U.S. citizenship must be proven by producing one of an enumerated list of documents. *Id.*; *see also* HB 56 § 29(k). If a person does not possess one of the enumerated documents but is in fact a U.S. Citizen, that person cannot satisfy the proof requirements of Section 30.

44. Section 30 of HB 56 further provides that an alien’s lawful presence shall be demonstrated solely by the state or political subdivision’s verification of the alien’s lawful presence through the Systematic Alien Verification for Entitlements (“SAVE”) program operated by the federal Department of Homeland Security (“DHS”), or by other verification with DHS pursuant to 8 U.S.C. § 1373(c). *Id.*

45. SAVE is an inter-governmental initiative designed to aid public benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses.

46. Section 1373(c) of Title 8 of the U.S. Code requires the federal immigration agency to respond to certain immigration status inquiries by state and local agencies. After passage of Section 1373(c), the Immigration and Naturalization Service (now Department of Homeland Security) created the Law Enforcement Support Center to respond to requests for state and local law enforcement officers. There is, however, no system under § 1373(c) to verify citizenship or immigration status for individuals attempting to renew registration of manufactured homes or relating to any housing issues.

47. Neither the federal SAVE system, nor any federal system for status inquiries under § 1373(c), has been authorized by the federal government to verify immigration status in order to disqualify individuals from paying registration fees for manufactured homes or for any related purpose.

48. Moreover, federal determinations made under the SAVE system or any other system set up by § 1373(c), are merely snapshots of an individuals' status at some point prior to the status check and do not provide reliable or accurate immigration status determinations.

49. Upon information and belief, Defendant Stubbs and the Elmore County Probate Office are not enrolled in, and cannot currently utilize, the SAVE program to determine whether manufactured home owners or renters are U.S. citizens or have lawful immigration status.

50. Upon information and belief, Defendant Stubbs and the Elmore County Probate Office are not authorized to use, and cannot currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

51. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees has received approval to use SAVE to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

52. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees can currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

53. As a result, state and local officials are making their own determinations about the applicants' U.S. citizenship or lawful immigration status before allowing them to renew manufactured home registration and are implementing Section 30 in a manner expressly at odds with HB 56.

54. HB 56 does not establish any process by which an individual can challenge a determination by a state or local official that he or she is not "authorized" to be in the United States.

2. History and Intent of Section 30 of HB 56

55. The legislative history of Section 30 of HB 56 reveals a plain legislative intent to drive those suspected of being undocumented immigrants, and in particular minority immigrants of Latino heritage, out of Alabama by making living conditions miserable for them or by funneling them into deportation proceedings.

56. Representative Hammon, who introduced the bill in the House, explained: "This [bill] attacks *every aspect* of an illegal immigrant's life. They will not stay in Alabama [T]his bill is designed to make it difficult for them to live here so they will deport themselves." He also noted, "[W]e do want to affect every aspect of someone's life and make it a little more difficult for them to live here." In no uncertain terms, Representative Hammon stated: "[T]he

intent of this bill is to slow illegal immigration in Alabama through attrition.” He emphasized: “We are going to deter illegal immigrants from the State of Alabama.”

57. Senator Beason, who introduced a similar omnibus immigration bill in the Senate, and who ultimately consolidated his bill with Hammon’s to form HB 56, also expressed his views that the intent of HB 56 was to drive immigrants from the state. In a speech he delivered in February 2011, just before the legislative session commenced, he noted, “The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually If you don’t believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.”

58. Section 30 of HB 56 is designed to achieve these goals by making it impossible for undocumented immigrants who reside in manufactured homes to continue living in this State.

59. The entirety of HB 56, including Section 30, is specifically targeted at making Latinos leave Alabama. The State officials who enacted and are implementing Section 30 of HB 56 knew that Section 30, and HB 56 in its entirety, would have the greatest impact on Latino immigrants. Latinos make up a majority of the State’s foreign-born population. And although only a small percentage of Latino immigrants in Alabama are undocumented, a majority of Alabama’s undocumented population is Latino.

60. Representative Rich, who voted for the bill, remarked that although he “like[s] Hispanic people,” “95 percent of the children that are in the elementary school at Crosswell Elementary School are Hispanic, 95 percent of them. 52 percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.” Representative Rich did not identify a source of information or any other factual basis for his allegation that “the biggest part of” the school children discussed were undocumented.

61. Contrary to Representative Rich's assertion, in Alabama approximately 85% of all children whose parents are not lawfully present in the United States are U.S. citizens.

62. Representative Hammon has also conflated Latinos with undocumented immigrants. For example, on June 2, 2011, the date that the House of Representatives passed the final version of HB 56, Representative Hammon explained the need for the bill by claiming that "the illegal immigration population in Alabama is the second fastest growing in the country and the people in our state need jobs back." When asked for evidence to substantiate this claim, he pointed to a news article that observed that the State's *Latino* population had grown by 145% from 2000 to 2010, the second highest percentage of growth in the country for that ten-year period. The article did not, however, discuss any data or studies of undocumented immigrant populations. It was limited to a discussion of Alabama's Latino population.

63. Similarly, Senator Beason singled out Arab and Albertville, both of which are in Marshall County, as examples of communities that have allegedly been destroyed by the presence of undocumented persons. Senator Beason's comments were in no uncertain terms directed at Latino immigrants. Compared to the rest of the State, Marshall County has a large Latino population: 12% of Marshall County residents are Latino, compared to less than 4% of the State population. Moreover, Marshall County has no other significant immigrant population.

64. Those who opposed the legislation likewise understood that it took aim at Mexicans and other Latinos. Senator Singleton observed: "[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans" Senator Holmes stated: "The purpose of this bill is . . . these Mexicans [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can]" Representative Jackson warned that the effects of HB

56 would reach even further than targeting Latinos: “It just doesn’t stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities.”

65. At times supporters of HB 56 have spoken in violent terms about their desire to eradicate immigrants in Alabama. For example, at a town hall meeting this summer after HB 56 passed, Alabama Congressman Mo Brooks stated, in reference to his desire to force undocumented immigrants out of Alabama, that “[a]s your congressman on the house floor, I will do anything short of shooting them.”

66. In enacting HB 56 generally, and Section 30 specifically, Alabama legislated in an area committed exclusively to the federal government under the U.S. Constitution. Indeed, by passing HB 56, Alabama has intruded into an area of exclusive federal control and has sought to supplant the federal government in key respects.

67. Contrary to long-settled law that establishes the federal government’s exclusive role in regulating immigration, Section 30 of HB 56 reflects the view that the State of Alabama should regulate immigration on its own. Alabama has sought to use its self-granted power to attempt to drive people who are perceived to be undocumented out of the State through the denial of housing and housing-related local services. As Representative Hammon stated during legislative debates, “[I]t is the State’s responsibility to handle this issue and not the federal government.” He explained, “[T]his issue is now the responsibility of the State of Alabama and not the federal government.” He explained, in reference to federal immigration law and policy, that “[w]e are not going to depend on a broken system Here in Alabama we are not going to ignore the problem.”

68. HB 56 allows the State of Alabama to take control of immigration enforcement which Alabama has sought to justify by arguing that the federal government has failed to act to the State's satisfaction. Representative Hammon remarked when he introduced the bill, "[I]t appears that the federal government has defaulted on their responsibility of enforcing federal immigration law. And they have forfeited that right to the States." Senator Beason concurred with this sentiment, noting in the Senate debates that "[i]f the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws."

69. Representative Hammon, one of the two sponsors of HB 56, has publicly applauded efforts by local officials to deny essential housing-related services to individuals like Plaintiff Doe #1 and Plaintiff Doe #2, precisely because these acts will have the effect of driving Plaintiffs and other similarly situated people out of Alabama. As Representative Hammon explained this October when he was asked his views on new policies by certain public utilities to deny services to undocumented individuals under Section 30:

Our goal [through Section 30] was to prevent any business transactions with any governments. It's just an extension of the goal of the entire bill—to prevent illegal immigrants from coming to Alabama and *to discourage those that are here from putting down roots. . . . It seems to be working. . . . We're seeing a lot of illegal immigrants self-deport.*

C. Complying with Alabama's Manufactured Homes Statute Constitutes a "Business Transaction" with the State, Which Is Forbidden to Undocumented Immigrants Under HB 56 Section 30.

70. The process of submitting a payment for the annual manufactured home registration fee and obtaining a current identification decal, as required by Alabama Code Section 40-12-255(a), is a "business transaction with the State" subject to HB 56 Section 30(a).

71. Applying for a moving permit pursuant to Alabama Code Section 40-12-255(j) is also a “business transaction with the State” subject to HB 56 Section 30(a).

72. Thus, the enforcement of HB 56 Section 30 will harm individuals who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status. Such individuals will be denied the rights to make an annual manufactured home registration payment, obtain a current identification decal, and apply for a moving permit.

73. Without a current registration payment and identification decal, any individual who owns, maintains, or keeps a manufactured home in Alabama will be subject to serious repercussions, including fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code § 40-12-255(a), (l); §§ 13A-5-7 and 13A-5-12.

74. Without a moving permit, an individual who attempts to transport a manufactured home on public roads in Alabama is subject to fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code §§ 40-12-255(j)(1) and (4); §§ 13A-5-7 and 13A-5-12.

75. In addition, an individual without documentation of U.S. citizenship or lawful immigration status who attempts to submit an annual manufactured home registration payment, obtain a current identification decal, or apply for a moving permit may be charged with a Class C felony and imprisoned for up to ten years under HB 56. HB 56 § 30(b), (d); Ala. Code § 13A-5-6.

76. An individual who attempts to submit a registration payment, obtain a current identification decal, or apply for a moving permit on behalf of an undocumented immigrant will likewise be charged with a Class C felony and can be sentenced to a ten-year prison term. *Id.*

77. Defendant Stubbs, in his capacity as the Probate Judge of Elmore County, has announced a policy pursuant to HB 56 Section 30 of requiring proof of U.S. citizenship or lawful immigration status in order for an individual to make an annual manufactured home registration payment and obtain a current identification decal. Defendant Stubbs' policy makes it impossible for Plaintiffs Doe #1 and Doe #2 to comply with Alabama Code Section 40-12-255 because they are not allowed to submit their annual registration payments or obtain a current identification decal.

78. Section 30 of HB 56 applies statewide. Thus the same policy described in the preceding paragraph will be and is already being faced by every member of the Class and Subclass, regardless of which county they live in. In each of these counties, Defendant Magee is responsible for supervising and directing the work of the county officials from whom Class and Subclass members must obtain identification decals for their manufactured homes.

D. Section 30 of HB 56 Is Federally Preempted.

79. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I § 8, cl. 4, and to "regulate Commerce with foreign Nations," U.S. Const. art. I § 8, cl. 3. In addition, the Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

80. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See generally* Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

81. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws. A state law that regulates the terms and conditions under

which non-citizens may remain in the State are preempted as an impermissible regulation of immigration.

82. State laws, like Section 30, that encroach on areas where Congress has indicated an intent to occupy the field—such as the regulation of the residence of non-citizens—are preempted. As are state laws that conflict with federal immigration law.

83. Section 30 of HB 56 dramatically alters the conditions under which non-citizens may remain in Alabama. By specifically requiring all non-citizens to prove that they have lawful status in order to obtain a manufactured home decal, this Section fundamentally affects the terms and conditions under which non-citizens may remain in a dwelling in the State.

84. Furthermore, certain categories of non-citizens, like Plaintiffs Doe #1 and Doe #2 and the members of the Class and Subclass, are unable to continue to live in their homes under this regime without threat of fines, penalties, or criminal prosecution. As such, Section 30 fundamentally alters the rights of residence of the members of the Class and Subclass and the individual Plaintiffs.

85. As Section 30 is currently being implemented to deny decals to manufactured home owners in the State, local officials are being required to make independent determinations of immigration status—a complex task which they are not equipped, trained, or authorized to undertake. This is because in determining whether an individual attempting to renew their manufactured home registration is a U.S. citizen or lawful immigrant, state and local officials do not have access to federal databases on immigration and citizenship status. Instead, these state and local officials are scrutinizing documents and making their own conclusions about individuals' citizenship and immigration status—determinations they are not trained to make.

86. Under the INA, a non-citizen's immigration status may be fluid and subject to change over time. A non-citizen who enters the United States with authorization, with a student visa for example, may remain in the country past his period of authorized stay and thus no longer be in status. Alternatively, he may overstay his original visa yet remain in status; for example, if he is eligible to and does change into a different visa classification. Conversely, a non-citizen who enters the United States without authorization, for example by crossing into the country by foot while evading border authorities, may subsequently gain lawful status, such as through a successful asylum application or grant of Temporary Protected Status.

87. The fluidity of immigration status is a fundamental feature of federal immigration law. It is a direct and unavoidable consequence of the system of immigration regulation that Congress has prescribed. This feature, moreover, accommodates many important national interests including, for example, the nation's humanitarian and international law obligations regarding asylum seekers and people fleeing torture.

88. Section 30 of HB 56 presumes that immigration status is definite, not subject to nuance, and readily and quickly ascertained. But those presumptions are not accurate.

89. Moreover, whether a person is a citizen of the United States is not always easily ascertained in the contexts demanded by Section 30 of HB 56. U.S. citizens are not required to carry documentary proof of their citizenship. Section 30 requires utilization of a list of documents, *see* HB 56 §§ 30(c), 29(k), but there is no guarantee that every U.S. citizen will possess one of these documents.

90. Furthermore, there is no national database that contains information about every U.S. citizen. Some people are actually unaware of their U.S. citizenship because they may have acquired U.S. citizenship at birth by operation of law due to their parents' citizenship, despite not

having been born in the United States. *See, e.g.*, 8 U.S.C. § 1431. Others automatically obtain citizenship when their parents become naturalized U.S. citizens. *See, e.g.*, 8 U.S.C. § 1433.

91. The federal government has a core, constitutionally protected interest in setting a uniform federal immigration scheme, and in conducting foreign relations with other nations. State immigration laws interfere with these core interests.

92. Because the United States' immigration policy is inextricably intertwined with foreign relations, Alabama's attempt to regulate immigration through Section 30 of HB 56 will adversely impact the United States' ability to conduct foreign relations with other countries. HB 56 will undermine the ability of the U.S. government to speak with a single voice about immigration, including communicating to foreign nations as to what their nationals can expect when they come to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

E. Defendants' Enforcement of Section 30 of HB 56 Has a Disproportionate Adverse Impact on Alabama Latinos.

93. Defendants' enforcement of Section 30 of HB 56 as alleged above in Paragraphs 70-78 has a disproportionate adverse impact on Latinos in the State.

94. In Alabama, Latinos are significantly more likely than any other group to live in manufactured homes. Nearly a third (27.6%) of all Latinos living in Alabama reside in the U.S. census housing category "Mobile home, boat, RV, van, etc.," compared to 14.3% of non-Latino Caucasians, 10.2% of non-Latino African Americans, and 3.2% of Asians. Considering the population of Alabama as a whole, only 13.5% of the population lives in mobile homes.²

² Under Alabama law a mobile home is a "manufactured home" subject to Alabama Code Section 40-12-255.

95. Latinos are overrepresented among Alabama's foreign-born, non-U.S. citizen population. Latinos make up almost 45% of Alabama's foreign-born, non-naturalized population, whereas the total population of Alabama is less than 4% Latino. Approximately 65% of Alabama's non-U.S. citizen population is Latino.

96. Of Alabama's undocumented immigrant population, a large majority are Latino. Nationwide, approximately 77% of all undocumented immigrants are Latino.

INJURIES TO THE NAMED PLAINTIFFS

A. Harm to Individual Named Plaintiffs

97. Plaintiff Doe #1 and Plaintiff Doe #2 own and live in manufactured homes located in Elmore County, Alabama.

98. Because of Defendant Stubbs' policy, Plaintiff Doe #1 and Plaintiff Doe #2 face an impossible quandary. If they attempt to submit the annual registration payment and to obtain a current identification decal as required by Alabama Code Section 40-12-255(a), and/or to obtain a moving permit in order to move their manufactured homes out of Alabama by traveling on public roads, they will be subject to the harsh penalties established in HB 56 Section 30(d), and they will be denied the decal or permit for which they would be applying. If Plaintiff Doe #1 and Plaintiff Doe #2 fail to obtain a current identification decal and/or attempt to move their manufactured homes out of Alabama by traveling on public roads without a moving permit, they will be subject to similarly draconian penalties established in Alabama Code Section 40-12-255(a), (j), and (l).

99. If subjected to the enforcement of HB 56 Section 30, Plaintiff Doe #1 and Plaintiff Doe #2 could be forced to abandon their housing and permanently forfeit their manufactured homes, because there will be no way for them to come into compliance with

Alabama Code Section 40-12-255(a). Under Section 27 of HB 56, these Plaintiffs will not be able to sell their homes if they are forced to leave the manufactured home parks where they now live with their families.

100. Plaintiff Doe #1 wants to comply with Alabama Code Section 40-12-255 but knows he cannot do so if Defendants continue their policy of enforcing HB 56 Section 30.

101. Plaintiff Doe #1 fears that if he is unable to obtain a current identification decal, he and his partner and their U.S. citizen son will have to abandon their home in order to avoid the fines, penalties, and criminal charges that are authorized under Alabama Code Section 40-12-255 for failure to display a valid identification decal.

102. Plaintiff Doe #1 does not know where else he could find housing if he had to give up his current home. He and his partner would have to leave behind their jobs and their church community and would have to pull their U.S. citizen son out of school. Plaintiff Doe #1 is afraid that his son's education would be jeopardized if his family had to leave their home in Elmore.

103. Since the adoption of HB 56, Plaintiff Doe #1, his partner, and his son have suffered continuing anxiety and fear.

104. Plaintiff Doe #2 wants to do what is required under Alabama Code Section 40-12-255, but he is unable to make the annual registration payment and obtain a current decal because of Defendants' policy of enforcing Section 30 of HB 56.

105. Plaintiff Doe #2 is afraid that he will be fined, imprisoned, or deported if he cannot make the annual registration payment and obtain a current identification decal for his manufactured home, where he lives with his partner, son, and five extended family members.

106. Plaintiff Doe #2 fears that because of Defendants' challenged acts, he and his family may have to abandon their home, without being able to sell it. Plaintiff Doe #2 does not

know where he and his family could move if they can no longer live in their home in Millbrook. He is worried that he would not be able to find work to support his family, and he does not want to make his young U.S.-citizen son leave his school and his friends.

107. Plaintiff Doe #2 fears that his partner and son's well-being will suffer if Plaintiff Doe #2 is detained or deported, pursuant to Defendants' enforcement of Section 30 of HB 56.

108. Because they will not have current decals on the outside of their homes, Plaintiffs Doe #1 and Doe #2 will be involuntarily yet conspicuously in violation of their lawful obligations under Alabama Code Section 40-12-255. Being forced to be visibly out of compliance with the law will significantly heighten the exposure of Plaintiffs Doe #1 and Doe #2 and their families to law enforcement, who pursuant to the new authority conferred by Section 12 of HB 56 are obligated "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," to make inquiries into that person's citizenship and immigration status. HB 56 § 12(a). Plaintiffs Doe #1 and Doe #2 thus face an increased risk of arrest and detention because of Defendants' enforcement of HB 56 Section 30.

B. Harm to Organizational Plaintiffs

109. Defendants' enforcement of HB 56 Section 30 has harmed and will continue to harm Plaintiffs CAFHC, FHCNA, and CFH.

110. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CAFHC's mission of promoting understanding of and enforcing fair housing laws. In order to counteract the effects of Defendants' acts by educating people about their rights, Plaintiff CAFHC staff members have had to spend time researching the enforcement policies adopted by different counties in Alabama, the criminal and fair housing implications of the law, and related state-law requirements applicable to manufactured homes. Plaintiff CAFHC

personnel have also prepared for and presented at know-your-rights training sessions to speak about HB 56 Section 30 to people who live in manufactured home residents and drafted an educational flyer with information about HB 56 Section 30 and manufactured home decals.

111. The need for these counteraction activities that are in specific response to Defendants' enforcement of HB 56 Section 30 have prevented or delayed Plaintiff CAFHC from working on other projects that it would have completed, including finalizing an Analysis of Impediments, pursuant to a contract awarded by the City of Montgomery; pursuing a planned program to conduct testing for race and disability based housing discrimination in the middle region of Alabama; and participating in a mortgage lending training session.

112. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff FHCNA's mission of eliminating housing discrimination. In order to counteract the discriminatory and unlawful impact of Defendants' acts on the communities it serves, Plaintiff FHCNA will have to divert scarce resources away from regularly planned activities by, *inter alia*, realigning its testing program to target discrimination based on national origin against residents of manufactured home parks, readjusting its client intake counseling to provide information and assess the impacts of HB 56 Section 30 on manufactured home residents, and meeting with community and civil rights groups regarding the impacts that HB 56 Section 30 is having on residents of manufactured homes. In response to HB 56 Section 30 Plaintiff FHCNA has engaged and is engaging in communications with HUD to seek guidance on the fair housing implications of the law and is preparing know-your-rights materials.

113. Because Plaintiff FHCNA is devoting and will continue to devote its limited resources to the activities described in the preceding paragraph, it has been unable to engage in

regularly planned programs including testing in fields that it had planned to investigate, such as sales and insurance, and engaging in normal outreach and client intake.

114. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CFH's mission, which is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants' rights, and lending practices. In order to counteract the discriminatory and harmful impact of HB 56 on the communities it serves, Plaintiff CFH has had to reach out to organizations that work with immigrant communities, and it has participated in meetings to discuss the applicability of HB 56 Section 30 to manufactured homes. Plaintiff CFH has spent time researching HB 56 Section 30 and its impact on manufactured home residents, and it has been in communication with HUD regarding problems associated with HB 56's housing restrictions. Plaintiff CFH has also applied to realign its funding from a focus on predatory lending to a focus on outreach and enforcement regarding national origin discrimination in order to respond to HB 56's discriminatory housing restrictions, including Section 30.

115. These counteraction activities have prevented and delayed Plaintiff CFH from working on other planned projects, such as conducting general rental testing and routine outreach activities and conducting education and outreach on other issues.

CLASS ALLEGATIONS

116. Plaintiffs Doe #1 and Doe #2 have filed this Complaint as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

117. Plaintiffs Doe #1 and Doe #2 request that this Court certify a Class of all similarly situated individuals. The proposed Class definition is: All individuals who (1) reside in

Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home in Alabama.

118. Plaintiffs Doe #1 and Doe #2 further request that the Court certify a Latino Subclass with the following definition: All Latinos who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home.

119. This action is properly maintained as a class action because:

(a) Joinder of all members of the Class and Latino Subclass is impracticable because of the size of the Class and Subclass.

(i) The Class comprises more than 40 households.

(ii) The Latino Subclass comprises more than 40 households.

(b) The claims alleged on behalf of the Class and Latino Subclass raise questions of law and fact that are common to the Class and Subclass.

(i) All Class members will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.

(ii) The members of the Latino Subclass are of the same race and national origin. The enforcement of Section 30 of HB 56 is intentionally targeted at members of the Subclass because of their Latino race and national origin, and it will have a disproportionate adverse impact on members of the Subclass.

(c) The claims of the Class representatives are typical of the Class and Subclass.

- (i) Like the members of the Class, Plaintiffs Doe #1 and Doe #2 will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.
- (ii) Like the members of the Latino Subclass, Plaintiffs Doe #1 and Doe #2 are Latinos who will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution, due to the discriminatory intent and effect of Defendants' enforcement of Section 30 of HB 56, on grounds of Subclass members' Latino race and national origin.
- (d) The Class and Latino Subclass representatives and Class counsel will fairly and adequately represent the interests of the Class and Subclass. The Class and Latino Subclass representatives have no interests that are antagonistic to the interests of other Plaintiffs, and Class counsel have substantial experience in civil rights and class action litigation.

120. Class-wide declaratory and injunctive relief is appropriate for the Class because Defendants have acted or refuse to act on grounds generally applicable to the Class as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Class members.

121. Class-wide declaratory and injunctive relief is appropriate for the Latino Subclass because Defendants have acted or refuse to act on grounds generally applicable to the Subclass as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Latino Subclass members.

122. There are questions of law or fact common to all of the members of the Class and Latino Subclass that predominate over any questions affecting only individuals and a class action is superior to other methods for a fair and efficient adjudication of the controversy. Common questions of law or fact predominate and the controversy is most fairly and efficiently adjudicated via class action because all Class and Latino Subclass members will be subject to the same fines, penalties, and threat of criminal prosecution for the same conduct.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

For Injunctive and Declaratory Relief under the Fair Housing Act, 42 U.S.C. § 3604(a) Against All Defendants

On Behalf of All Named Plaintiffs and the Latino Subclass

123. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

124. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, maintains, or keeps a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

125. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make registration payments and apply for a manufactured home decal or a moving permit.

126. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits to Plaintiffs Doe #1, Doe #2 and the Latino Subclass will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Injunctive and Declaratory Relief Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of All Named Plaintiffs and the Latino Subclass

127. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

128. Section 40-12-255 of the Alabama Code requires anyone who owns, maintains, or keeps a manufactured home to obtain a decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

129. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make an annual registration fee payment or apply for a manufactured home decal or a moving permit.

130. Defendants' enforcement of Section 30 of HB 56 against Plaintiffs Doe #1, Doe #2, and the Latino Subclass by refusing to accept their annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing occupied by Latino Subclass members, because of their race and national origin, in violation of 42 U.S.C. § 3604(b).

THIRD CAUSE OF ACTION
For Injunctive and Declaratory Relief Under U.S. Const., Art. VI, cl. 2
Against All Defendants
On Behalf of All Named Plaintiffs and the Class

131. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 35-69, 79-92, 97-115, 117, 119-120, and 122 above.

132. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the

Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

133. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

134. Section 30 of HB 56 makes it a crime for certain non-citizens, including Plaintiffs Doe #1, Doe #2, and members of the Class, to make an annual registration payment or apply for a manufactured home decal or moving permit.

135. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns or maintains a manufactured home to obtain a decal by or before November 30 of each year.

136. The inability to obtain a decal will make housing unavailable to Plaintiffs Doe #1, Doe #2, and members of the Class.

137. Section 30 of HB 56 regulates the terms and conditions under which non-U.S. citizens may remain in Alabama.

138. Section 30 is an impermissible state regulation of immigration, and therefore usurps powers constitutionally vested in the federal government exclusively.

139. Section 30 also conflicts with federal laws, regulations, and policies; attempts to legislate in a field occupied by the federal government; imposes burdens and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

140. Plaintiffs move for relief on this claim directly under the Constitution and also under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
For Injunctive and Declaratory Relief Under 42 U.S.C. § 1983 and
U.S. Const., Amend. XIV § 1, cl. 3
Against All Defendants
On Behalf of Plaintiff Doe #1, Plaintiff Doe #2, and the Class

141. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-54, 70-78, and 97-108, 117, 119-120, and 122 above.

142. Defendants' enforcement of Section 30 of HB 56 prohibits Plaintiffs Doe #1, Doe #2, and the Class from complying with the requirements under Alabama Code Section 40-12-255 to pay an annual registration fee and to obtain and prominently display a current manufactured home identification decal. Without a current identification decal, Plaintiffs Doe #1, Doe #2, and the Class will be subject to the penalties established in Alabama Code Section 40-12-255(a) and (k).

143. Defendants' enforcement of Section 30 of HB 56 will force Plaintiffs Doe #1, Doe #2, and the Class to abandon their housing and permanently forfeit their manufactured homes, because they cannot come into compliance with Alabama Code Section 40-12-255(a) or (j).

144. Under Section 27 of HB 56, the individual Plaintiffs and the Class will be unable to sell their homes before abandoning and forfeiting them.

145. Defendants' enforcement of HB 56 Section 30 against Plaintiffs Doe #1, Doe #2, and the Class has deprived and/or will deprive them of their property without substantive due process, in violation the Due Process Clause of the Fourteenth Amendment.

146. Defendants' enforcement of HB 56 Section 30 is pursuant to their official capacities as state actors under color of law and is therefore actionable under the Fourteenth Amendment through 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
On Behalf of All Named Plaintiffs

147. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

148. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

149. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

150. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

151. Defendants' violations of 42 U.S.C. § 3604(a) have caused and will continue to cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to compensatory damages under 42 U.S.C. § 3613(c).

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of the Named Plaintiffs

152. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

153. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

154. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1 and Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

155. Defendants' enforcement of Section 30 of HB 56 by refusing to accept annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing on the basis of race and national origin, in violation of 42 U.S.C. § 3604(b).

156. Defendants' violations of 42 U.S.C. § 3604(b) have caused and will cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to damages under 42 U.S.C. § 3613(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

(1) Issue a temporary restraining order and preliminary injunction immediately enjoining the enforcement of HB 56 Section 30 statewide against Plaintiffs and the Class and Latino Subclass;

(2) Order Defendant Magee to immediately notify all county officials who are responsible for enforcing the manufactured home registration requirements of Section 40-12-255 of the Alabama Code if said temporary restraining order and preliminary injunction is entered;

(3) Certify the Class and Subclass;

(4) Enter a declaratory judgment finding that Defendants' enforcement of HB 56 Section 30 violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b); the Supremacy Clause of Article VI of the U.S. Constitution; the Due Process Clause of Amendment XIV of the U.S. Constitution; and 42 U.S.C. § 1983.

(5) Enter a permanent injunction enjoining Defendants from enforcing Section 30 of HB 56;

(6) Award compensatory damages to Plaintiffs Doe #1, Doe #2, CAFHC, FHCNA, and CFH for their claims for damages under 42 U.S.C. § 3604(a) and (b);

(7) Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2); and

(8) Order such other relief as this Court deems just and equitable.

Dated: November 21, 2011

Respectfully submitted,

s/ Samuel Brooke
Samuel Brooke
On Behalf of Counsel for Plaintiffs

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Counsel for Plaintiffs

* Appear *pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing was delivered through the CM/ECF system by electronic mail to the following counsel:

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I further certify that arrangements have been made to serve a true and correct copy of the foregoing by hand delivery, along with a summons from this court, to:

Judge Jimmy Stubbs
Probate Office
100 Commerce Street
Wetumpka, Alabama 36092

I so certify this 21st day of November, 2011.

s/ Samuel Brooke
Samuel Brooke

EXHIBIT 1

ACT No. 2011 - 535

1 HB56
2 132433-8
3 By Representatives Hammon, Collins, Patterson, Rich, Nordgren,
4 Merrill, Treadaway, Johnson (R), Roberts, Henry, Bridges,
5 Gaston, Johnson (K), Chesteen, Sanderford, Williams (D),
6 McClendon, Wren, Williams (J), Hubbard (M), Williams (P),
7 Baughn, Moore (B), Long and Canfield
8 RFD: Public Safety and Homeland Security
9 First Read: 01-MAR-11
10 PFD: 02/25/2011



HB56

1
2 ENROLLED, An Act,

3 Relating to illegal immigration; to define terms; to
4 require the Attorney General to attempt to negotiate a
5 Memorandum of Agreement under certain conditions; to require a
6 person to present proof of citizenship and residency before
7 voting; to preclude any state or local government or official
8 from refusing to assist the federal government in the
9 enforcement of federal immigration laws; to prohibit an alien
10 unlawfully present in the United States from receiving any
11 state or local public benefits; to prohibit a person not
12 lawfully present from being eligible on the basis of residence
13 for education benefits; to require business entities or
14 employers seeking economic incentives to verify the employment
15 eligibility of their employees and to provide penalties; to
16 require an illegal alien to possess certain documents already
17 required by federal law and to provide penalties; to prohibit
18 an unauthorized alien from seeking employment in this state
19 and to provide penalties; to require the verification of the
20 legal status of persons by law enforcement officers under
21 certain circumstances; to criminalize certain behavior
22 relating to concealing, harboring, shielding, or attempting to
23 conceal, harbor, or shield unauthorized aliens and to provide
24 penalties; to create the crime of dealing in false
25 identification documents and the crime of vital records

HB56

1 identity fraud and to provide penalties; to prohibit a
2 business entity, employer, or public employer from knowingly
3 employing an unauthorized alien and to provide penalties; to
4 prohibit certain deductible business expenses; to make it a
5 discriminatory practice for a business entity or employer to
6 fail to hire a legally present job applicant or discharge an
7 employee while retaining an employee who is an unauthorized
8 alien under certain conditions; to require the verification of
9 legal status of every alien charged with a crime for which
10 bail is required; to amend Section 32-6-9 of the Code of
11 Alabama 1975, relating to driver's licenses; to require law
12 enforcement to detain any alien whose lawful immigration
13 status cannot be verified under certain conditions; to require
14 notification of the United States Bureau of Immigration and
15 Customs Enforcement and the Alabama Department of Homeland
16 Security when an unlawfully present alien is convicted of
17 state law; to provide for a stay of the provisions of this act
18 when an alien unlawfully present is a victim or critical
19 witness of a crime under certain conditions; to authorize the
20 Alabama Department of Homeland Security to hire state police
21 officers and give the department enforcement power under
22 certain conditions; to provide penalties for solicitation,
23 attempt, or conspiracy to violate this act; to require the
24 Alabama Department of Homeland Security to file a quarterly
25 report with the Legislature under certain conditions; to

HB56

1 require the Alabama Department of Homeland Security to
2 establish and maintain an E-Verify employer agent service
3 under certain conditions; to prohibit the enforcement of
4 certain contracts under certain conditions; to require public
5 schools to determine the citizenship and immigration status of
6 students enrolling; to require school districts to compile
7 certain data and submit reports to the State Board of
8 Education; to require the State Board of Education to submit
9 an annual report to the Legislature; to further provide for
10 eligibility and requirements for voter registration; to
11 establish a state election board; to provide duties of the
12 board; to provide that a person may obtain a certified copy of
13 a birth certificate from the Department of Public Health free
14 of charge under certain conditions; to prohibit an alien not
15 lawfully present from entering into a business transaction
16 under certain conditions and provide penalties; to prohibit a
17 landlord from knowingly entering into a rental agreement to
18 harbor an illegal alien and provide penalties; and in
19 connection therewith would have as its purpose or effect the
20 requirement of a new or increased expenditure of local funds
21 within the meaning of Amendment 621 of the Constitution of
22 Alabama of 1901, now appearing as Section 111.05 of the
23 Official Recompile of the Constitution of Alabama of 1901,
24 as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

HB56

1 Section 1. This act shall be known and may be cited
2 as the Beason-Hammon Alabama Taxpayer and Citizen Protection
3 Act.

4 Section 2. The State of Alabama finds that illegal
5 immigration is causing economic hardship and lawlessness in
6 this state and that illegal immigration is encouraged when
7 public agencies within this state provide public benefits
8 without verifying immigration status. Because the costs
9 incurred by school districts for the public elementary and
10 secondary education of children who are aliens not lawfully
11 present in the United States can adversely affect the
12 availability of public education resources to students who are
13 United States citizens or are aliens lawfully present in the
14 United States, the State of Alabama determines that there is a
15 compelling need for the State Board of Education to accurately
16 measure and assess the population of students who are aliens
17 not lawfully present in the United States, in order to
18 forecast and plan for any impact that the presence such
19 population may have on publicly funded education in this
20 state. The State of Alabama further finds that certain
21 practices currently allowed in this state impede and obstruct
22 the enforcement of federal immigration law, undermine the
23 security of our borders, and impermissibly restrict the
24 privileges and immunities of the citizens of Alabama.
25 Therefore, the people of the State of Alabama declare that it

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1 is a compelling public interest to discourage illegal
2 immigration by requiring all agencies within this state to
3 fully cooperate with federal immigration authorities in the
4 enforcement of federal immigration laws. The State of Alabama
5 also finds that other measures are necessary to ensure the
6 integrity of various governmental programs and services.

7 Section 3. For the purposes of this act, the
8 following words shall have the following meanings:

9 (1) ALIEN. Any person who is not a citizen or
10 national of the United States, as described in 8 U.S.C. §
11 1101, et seq., and any amendments thereto.

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

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

24 b. Any business entity that possesses a business
25 license, permit, certificate, approval, registration, charter,

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1 or similar form of authorization issued by the state, any
2 business entity that is exempt by law from obtaining such a
3 business license, and any business entity that is operating
4 unlawfully without a business license.

5 (3) CONTRACTOR. A person, employer, or business
6 entity that enters into an agreement to perform any service or
7 work or to provide a certain product in exchange for valuable
8 consideration. This definition shall include, but not be
9 limited to, a general contractor, subcontractor, independent
10 contractor, contract employee, project manager, or a
11 recruiting or staffing entity.

12 (4) EMPLOYEE. Any person directed, allowed, or
13 permitted to perform labor or service of any kind by an
14 employer. The employees of an independent contractor working
15 for a business entity shall not be regarded as the employees
16 of the business entity, for the purposes of this act.

17 (5) EMPLOYER. Any person, firm, corporation,
18 partnership, joint stock association, agent, manager,
19 representative, foreman, or other person having control or
20 custody of any employment, place of employment, or of any
21 employee, including any person or entity employing any person
22 for hire within the State of Alabama, including a public
23 employer. This term shall not include the occupant of a
24 household contracting with another person to perform casual
25 domestic labor within the household.

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

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

18 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
19 electronic verification of work authorization programs
20 operated by the United States Department of Homeland Security
21 or an equivalent federal work authorization program operated
22 by the United States Department of Homeland Security to verify
23 information of newly hired employees, under the Immigration
24 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the
25 Illegal Immigration Reform and Immigrant Responsibility Act of

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1 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C.

2 §1324(a).

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

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

8 b. A result of the person's conduct when the person
9 is reasonably aware that the person's conduct is likely to
10 cause that result.

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

21 a. A valid, unexpired Alabama driver's license.

22 b. A valid, unexpired Alabama nondriver
23 identification card.

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

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

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

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

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

22 (12) PROTECTIVE SERVICES PROVIDER. A child
23 protective services worker; adult protective services worker;
24 protective services provider; or provider of services to
25 victims of domestic violence, stalking, sexual assault, or

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1 human trafficking that receives federal grants under the
2 Victim of Crimes Act, the Violence Against Women Act, or the
3 Family Violence Prevention and Services Act.

4 (13) PUBLIC EMPLOYER. Every department, agency, or
5 instrumentality of the state or a political subdivision of the
6 state including counties and municipalities.

7 (14) STATE-FUNDED ENTITY. Any governmental entity of
8 the state or a political subdivision thereof or any other
9 entity that receives any state monies.

10 (15) SUBCONTRACTOR. A subcontractor, contract
11 employee, staffing agency, or any contractor, regardless of
12 its tier.

13 (16) UNAUTHORIZED ALIEN. An alien who is not
14 authorized to work in the United States as defined in 8 U.S.C.
15 § 1324a(h) (3).

16 Section 4. (a) The Attorney General shall attempt to
17 negotiate the terms of a Memorandum of Agreement between the
18 State of Alabama and the United States Department of Homeland
19 Security, as provided in 8 U.S.C. Section 1357(g), concerning
20 the enforcement of federal immigration laws, detentions and
21 removals, and related investigations in the State of Alabama
22 by certain state law enforcement officers designated by the
23 Attorney General.

24 (b) The Memorandum of Agreement negotiated pursuant
25 to subsection (a) shall be signed on behalf of this state by

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1 the Attorney General and the Governor or as otherwise required
2 by the appropriate federal agency.

3 (c) A report of the results of the attempt of the
4 Attorney General to enter into a Memorandum of Agreement shall
5 be submitted to the Legislature within six months of the
6 effective date of this act.

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

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1 circuit court of the respective jurisdiction in which the
2 alleged offending agency resides.

3 (b) All state officials, agencies, and personnel,
4 including, but not limited to, an officer of a court of this
5 state, shall fully comply with and, to the full extent
6 permitted by law, support the enforcement of federal law
7 prohibiting the entry into, presence, or residence in the
8 United States of aliens in violation of federal immigration
9 law.

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

19 (1) Determining the eligibility for any public
20 benefit, service, or license provided by any state, local, or
21 other political subdivision of this state.

22 (2) Verifying any claim of residence or domicile if
23 determination of residence or domicile is required under the
24 laws of this state or a judicial order issued pursuant to a
25 civil or criminal proceeding of this state.

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1 (3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

2 (d) A person who is a United States citizen or an
3 alien who is lawfully present in the United States and is a
4 resident of this state may bring an action in circuit court to
5 challenge any official or head of an agency of this state or
6 political subdivision thereof, including, but not limited to,
7 an officer of a court in this state, that adopts or implements
8 a policy or practice that is in violation of 8 U.S.C. § 1373
9 or 8 U.S.C. § 1644. If there is a judicial finding that an
10 official or head of an agency, including, but not limited to,
11 an officer of a court in this state, has violated this
12 section, the court shall order that the officer, official, or
13 head of an agency pay a civil penalty of not less than one
14 thousand dollars (\$1,000) and not more than five thousand
15 dollars (\$5,000) for each day that the policy or practice has
16 remained in effect after the filing of an action pursuant to
17 this section.

18 (e) A court shall collect the civil penalty
19 prescribed in subsection (d) and remit one half of the civil
20 penalty to the Alabama Department of Homeland Security and the
21 second half shall be remitted to the Department of Public
22 Safety.

23 (f) Every person working for the State of Alabama or
24 a political subdivision thereof, including, but not limited
25 to, a law enforcement agency in the State of Alabama or a

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1 political subdivision thereof, shall have a duty to report
2 violations of this act. Any person who willfully fails to
3 report any violation of this act when the person knows that
4 this act is being violated shall be guilty of obstructing
5 governmental operations as defined in Section 13A-10-2 of the
6 Code of Alabama 1975.

7 (g) For the purposes of this section, the term
8 "official or head of an agency of this state" shall not
9 include a law enforcement officer or other personnel employed
10 in a jail who is acting within the line and scope of his or
11 her duty.

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

20 Section 6. (a) No official or agency of this state
21 or any political subdivision thereof, including, but not
22 limited to, an officer of a court of this state, may adopt a
23 policy or practice that limits or restricts the enforcement of
24 this act to less than the full extent permitted by this act or
25 that in any way limits communication between its officers or

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1 officials in furtherance of the enforcement of this act. If,
2 in the judgment of the Attorney General of Alabama, an
3 official or agency of this state or any political subdivision
4 thereof, including, but not limited to, an officer of a court
5 of this state, is in violation of this subsection, the
6 Attorney General shall report any violation of this subsection
7 to the Governor and the state Comptroller and that agency or
8 political subdivision shall not be eligible to receive any
9 funds, grants, or appropriations from the State of Alabama
10 until such violation has ceased and the Attorney General has
11 so certified.

12 (b) All state officials, agencies, and personnel,
13 including, but not limited to, an officer of a court of this
14 state, shall fully comply with and, to the full extent
15 permitted by law, support the enforcement of this act.

16 (c) Except as provided by this act, officials or
17 agencies of this state or any political subdivision thereof,
18 including, but not limited to, an officer of a court of this
19 state, may not be prohibited or in any way be restricted from
20 sending, receiving, or maintaining information relating to the
21 immigration status, lawful or unlawful, of any individual or
22 exchanging that information with any other federal, state, or
23 local governmental entity for any of the following official
24 purposes:

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

4 (2) Verifying any claim of residence or domicile if
5 determination of residence or domicile is required under the
6 laws of this state or a judicial order issued pursuant to a
7 civil or criminal proceeding of this state.

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

9 (d) A person who is a United States citizen or an
10 alien who is lawfully present in the United States and is a
11 resident of this state may bring an action in circuit court to
12 challenge any official or head of an agency of this state or
13 political subdivision thereof, including, but not limited to,
14 an officer of a court in this state, that adopts or implements
15 a policy or practice that limits or restricts the enforcement
16 of this act to less than the full extent permitted by this
17 act. Such person shall have actual knowledge that any official
18 or head of an agency of this state or political subdivision
19 thereof, including, but not limited to, an officer of a court
20 in this state, has adopted or implemented a policy or practice
21 that limits or restricts the enforcement of this act to less
22 than the full extent permitted by this act. If there is a
23 judicial finding that an official or head of an agency,
24 including, but not limited to, an officer of a court in this
25 state, has violated this section, the court shall order that

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1 the officer, official, or head of an agency pay a civil
2 penalty of not less than one thousand dollars (\$1,000) and not
3 more than five thousand dollars (\$5,000) for each day that the
4 policy or practice has remained in effect after the filing of
5 an action pursuant to this section.

6 (e) A court shall collect the civil penalty
7 prescribed in subsection (d) and remit one half of the civil
8 penalty to the Alabama Department of Homeland Security and the
9 second half shall be remitted to the Department of Public
10 Safety.

11 (f) Every person working for the State of Alabama or
12 a political subdivision thereof, including, but not limited
13 to, a law enforcement agency in the State of Alabama or a
14 political subdivision thereof, shall have a duty to report
15 violations of this act. Failure to report any violation of
16 this act when there is reasonable cause to believe that this
17 act is being violated is guilty of obstructing governmental
18 operations as defined in Section 13A-10-2, Code of Alabama
19 1975, and shall be punishable pursuant to state law.

20 (g) For the purposes of this section, the term
21 "official or head of an agency of this state" shall not
22 include a law enforcement officer or other personnel employed
23 in a jail who is acting within the line and scope of his or
24 her duty.

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1 Section 7. (a) As used in this section, the
2 following terms have the following meanings:

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

5 (2) FEDERAL PUBLIC BENEFITS. The same meaning as
6 provided in 8 U.S.C. § 1611.

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

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

13 (c) Except as otherwise provided in subsection (e)
14 or where exempted by federal law, commencing on the effective
15 date of this act, each agency or political subdivision of the
16 state shall verify with the federal government the lawful
17 presence in the United States of each alien who applies for
18 state or local public benefits, pursuant to 8 U.S.C. §§
19 1373(c), 1621, and 1625.

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

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

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1 (1) For primary or secondary school education, and
2 state or local public benefits that are listed in 8 U.S.C. §
3 1621(b).

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

8 (3) For short term, noncash, in kind emergency
9 disaster relief.

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

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

20 a. Deliver in-kind services at the community level,
21 including services through public or private nonprofit
22 agencies.

23 b. Do not condition the provision of assistance, the
24 amount of assistance provided, or the cost of assistance

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1 provided on the income or resources of the individual
2 recipient.

3 c. Are necessary for the protection of life or
4 safety.

5 (6) For prenatal care.

6 (7) For child protective services and adult
7 protective services and domestic violence services workers.

8 (f) No official of this state or political
9 subdivision of this state shall attempt to independently make
10 a final determination of whether an alien is lawfully present
11 in the United States. An alien's lawful presence in the United
12 States shall be verified by the federal government pursuant to
13 8 U.S.C. § 1373(c).

14 (g) Any United States citizen applying for state or
15 local public benefits, except those benefits described in
16 subsection (e), shall sign a declaration that he or she is a
17 United States citizen.

18 (h) Any person who knowingly makes a false,
19 fictitious, or fraudulent statement or representation in a
20 declaration executed pursuant to subsection (g) shall be
21 guilty of perjury in the second degree pursuant to Section
22 13A-10-102, Code of Alabama 1975. Each time that a person
23 receives a public benefit based upon such a statement or
24 representation shall constitute a separate violation of
25 Section 13A-10-102, Code of Alabama 1975.

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1 (i) The verification that an alien seeking state or
2 local public benefits is an alien lawfully present in the
3 United States shall be made through the Systematic Alien
4 Verification for Entitlements (SAVE) program, operated by the
5 United States Department of Homeland Security. If for any
6 reason the verification of an alien's lawful presence through
7 the SAVE program is delayed or inconclusive, the alien shall
8 be eligible for state or local public benefits in the interim
9 period if the alien signs a declaration that he or she is an
10 alien lawfully present in the United States. The penalties
11 under subsection (h) shall apply to any false, fictitious, or
12 fraudulent statement or representation made in a declaration.

13 (j) Each state agency or department that administers
14 a program that provides state or local public benefits shall
15 provide an annual report with respect to its compliance with
16 this section to the Government Affairs Committee of the Senate
17 and the Government Operations Committee of the House of
18 Representatives, or any successor committees.

19 (k) Errors and significant delays resulting from use
20 of the SAVE program shall be reported to the United States
21 Department of Homeland Security and to the Alabama Department
22 of Homeland Security to assist the federal government in
23 ensuring that the application of the SAVE program is not
24 wrongfully denying benefits to aliens lawfully present in the
25 United States.

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1 (1) For the purposes of administering the Alabama
2 Child Health Insurance Program, verification and documentation
3 of lawful presence through any alternative means expressly
4 authorized by federal law shall satisfy the requirements of
5 this section.

6 Section 8. An alien who is not lawfully present in
7 the United States shall not be permitted to enroll in or
8 attend any public postsecondary education institution in this
9 state. An alien attending any public postsecondary institution
10 in this state must either possess lawful permanent residence
11 or an appropriate nonimmigrant visa under 8 U.S.C. § 1101, et
12 seq. For the purposes of this section, a public postsecondary
13 education institution officer may seek federal verification of
14 an alien's immigration status with the federal government
15 pursuant to 8 U.S.C. § 1373(c). A public postsecondary
16 education institution officer or official shall not attempt to
17 independently make a final determination of whether an alien
18 is lawfully present in the United States. Except as otherwise
19 provided by law, an alien who is not lawfully present in the
20 United States shall not be eligible for any postsecondary
21 education benefit, including, but not limited to,
22 scholarships, grants, or financial aid.

23 Section 9. (a) As a condition for the award of any
24 contract, grant, or incentive by the state, any political
25 subdivision thereof, or any state-funded entity to a business

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1 entity or employer that employs one or more employees, the
2 business entity or employer shall not knowingly employ, hire
3 for employment, or continue to employ an unauthorized alien
4 and shall attest to such, by sworn affidavit signed before a
5 notary.

6 (b) As a condition for the award of any contract,
7 grant, or incentive by the state, any political subdivision
8 thereof, or any state-funded entity to a business entity or
9 employer that employs one or more employees, the business
10 entity or employer shall provide documentation establishing
11 that the business entity or employer is enrolled in the
12 E-Verify program. During the performance of the contract, the
13 business entity or employer shall participate in the E-Verify
14 program and shall verify every employee that is required to be
15 verified according to the applicable federal rules and
16 regulations.

17 (c) No subcontractor on a project paid for by
18 contract, grant, or incentive by the state, any political
19 subdivision thereof, or any state-funded entity shall
20 knowingly employ, hire for employment, or continue to employ
21 an unauthorized alien and shall attest to such by sworn
22 affidavit signed before a notary. The subcontractor shall also
23 enroll in the E-Verify program prior to performing any work on
24 the project and shall attach to the sworn affidavit

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1 documentation establishing that the subcontractor is enrolled
2 in the E-Verify program.

3 (d) A contractor of any tier shall not be liable
4 under this section when such contractor contracts with its
5 direct subcontractor who violates subsection (c), if the
6 contractor receives a sworn affidavit from the subcontractor
7 signed before a notary attesting to the fact that the direct
8 subcontractor, in good faith, has complied with subsection (c)
9 with respect to verifying each of its employee's eligibility
10 for employment, unless the contractor knows the direct
11 subcontractor is violating subsection (c).

12 (e) (1) Upon the first violation of subsection (a) by
13 any business entity or employer awarded a contract by the
14 state, any political subdivision thereof, or any state-funded
15 entity the business entity or employer shall be deemed in
16 breach of contract and the state, political subdivision
17 thereof, or state-funded entity may terminate the contract
18 after providing notice and an opportunity to be heard. Upon
19 application by the state entity, political subdivision
20 thereof, or state-funded entity, the Attorney General may
21 bring an action to suspend the business licenses and permits
22 of the business entity or employer for a period not to exceed
23 60 days, according to the procedures described in Section 15.
24 The court shall order the business entity or employer to file
25 a signed, sworn affidavit with the local district attorney

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1 within three days after the order is issued by the court
2 stating that the business entity or employer has terminated
3 the employment of every unauthorized alien and the business
4 entity or employer will not knowingly or intentionally employ
5 an unauthorized alien in this state. Before a business license
6 or permit that has been suspended under this subsection is
7 reinstated, a legal representative of the business entity or
8 employer shall submit to the court a signed, sworn affidavit
9 stating that the business entity or employer is in compliance
10 with the provisions of this act and a copy of the Memorandum
11 of Understanding issued to the business entity or employer at
12 the time of enrollment in E-Verify.

13 (2) Upon a second or subsequent violation of
14 subsection (a) by any business entity or employer awarded a
15 contract by the state, any political subdivision thereof, or
16 any state-funded entity the business entity or employer shall
17 be deemed in breach of contract and the state, any political
18 subdivision thereof, or any state-funded entity shall
19 terminate the contract after providing notice and an
20 opportunity to be heard. Upon application by the state entity,
21 political subdivision thereof, or state-funded entity, the
22 Attorney General may bring an action to permanently revoke the
23 business licenses and permits of the business entity or
24 employer according to the procedures described in Section 15.

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1 (f) (1) Upon the first violation of subsection (c) by
2 a subcontractor, the state or political subdivision thereof
3 may bar the subcontractor from doing business with the state,
4 any political subdivision thereof, any state-funded entity, or
5 with any contractor who contracts with the state, any
6 political subdivision thereof, or any state-funded entity
7 after providing notice and an opportunity to be heard. Upon
8 application by the state entity or political subdivision
9 thereof, or state-funded entity, the Attorney General may
10 bring an action to suspend the business licenses and permits
11 of the subcontractor for a period not to exceed 60 days,
12 according to the procedures described in Section 15. The court
13 shall order the subcontractor to file a signed, sworn
14 affidavit with the local district attorney within three days
15 after the order is issued by the court stating that the
16 subcontractor has terminated the employment of every
17 unauthorized alien and the subcontractor will not knowingly or
18 intentionally employ an unauthorized alien in this state.
19 Before a business license or permit that has been suspended
20 under this subsection is reinstated, a legal representative of
21 the subcontractor shall submit to the court a signed, sworn
22 affidavit stating that the subcontractor is in compliance with
23 the provisions of this act and a copy of the Memorandum of
24 Understanding issued to the subcontractor at the time of
25 enrollment in E-Verify.

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1 (2) Upon a second or subsequent violation of
2 subsection (c) by a subcontractor and upon application by the
3 state entity or political subdivision thereof, or state-funded
4 entity, the Attorney General may bring an action to
5 permanently suspend the business licenses of the business
6 entity or employer according to the procedures described in
7 Section 15. The determination of a violation shall be
8 according to the procedures described in Section 15.

9 (g) A business entity or employer that complies with
10 subsection (b) shall not be found to be in violation of
11 subsection (a). A subcontractor that is enrolled in the
12 E-Verify program during the full period of performance of the
13 subcontract shall not be found to be in violation of
14 subsection (c).

15 (h) The Secretary of State shall adopt rules to
16 administer this section and shall report any rules adopted to
17 the Legislature.

18 (i) Compliance with this section may be verified by
19 the state authorities or law enforcement at any time to ensure
20 a contractual agreement as provided for in this section is
21 being met.

22 (j) The suspension of a business license or permit
23 under subsection (e)(1) and (f)(1) shall terminate one
24 business day after a legal representative of the business
25 entity, employer, or subcontractor submits a signed, sworn

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1 affidavit stating that the business entity, employer, or
2 subcontractor is in compliance with the provisions of this act
3 to the court.

4 Section 10. (a) In addition to any violation of
5 federal law, a person is guilty of willful failure to complete
6 or carry an alien registration document if the person is in
7 violation of 8 U.S.C. § 1304(e) or 8 U.S.C. § 1306(a), and the
8 person is an alien unlawfully present in the United States.

9 (b) In the enforcement of this section, an alien's
10 immigration status shall be determined by verification of the
11 alien's immigration status with the federal government
12 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer
13 shall not attempt to independently make a final determination
14 of whether an alien is lawfully present in the United States.

15 (c) A law enforcement official or agency of this
16 state or a county, city, or other political subdivision of
17 this state may not consider race, color, or national origin in
18 the enforcement of this section except to the extent permitted
19 by the United States Constitution and the Constitution of
20 Alabama of 1901.

21 (d) This section does not apply to a person who
22 maintains authorization from the federal government to be
23 present in the United States.

24 (e) Any record that relates to the immigration
25 status of a person is admissible in any court of this state

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

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

14 (g) A court shall collect the assessments prescribed
15 in subsection (f) and remit 50 percent of the assessments to
16 the general fund of the local government where the person was
17 apprehended to be earmarked for law enforcement purposes, 25
18 percent of the assessments to the Alabama Department of
19 Homeland Security, and 25 percent of the assessments to the
20 Department of Public Safety.

21 Section 11. (a) It is unlawful for a person who is
22 an unauthorized alien to knowingly apply for work, solicit
23 work in a public or private place, or perform work as an
24 employee or independent contractor in this state.

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

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

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

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

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1 verification in determining whether a person is an
2 unauthorized alien.

3 (f) It is unlawful for an occupant of a motor
4 vehicle that is stopped on a street, roadway, or highway to
5 attempt to hire or hire and pick up passengers for work at a
6 different location if the motor vehicle blocks or impedes the
7 normal movement of traffic.

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

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

16 (i) A court shall collect the assessments prescribed
17 in subsection (h) and remit 50 percent of the assessments to
18 the general fund of the local government where the person was
19 apprehended to be earmarked for law enforcement purposes, 25
20 percent of the assessments to the Alabama Department of
21 Homeland Security, and 25 percent of the assessments to the
22 Department of Public Safety.

23 (j) The terms of this section shall be interpreted
24 consistently with 8 U.S.C. § 1324a and any applicable federal
25 rules and regulations.

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1 Section 12. (a) Upon any lawful stop, detention, or
2 arrest made by a state, county, or municipal law enforcement
3 officer of this state in the enforcement of any state law or
4 ordinance of any political subdivision thereof, where
5 reasonable suspicion exists that the person is an alien who is
6 unlawfully present in the United States, a reasonable attempt
7 shall be made, when practicable, to determine the citizenship
8 and immigration status of the person, except if the
9 determination may hinder or obstruct an investigation. Such
10 determination shall be made by contacting the federal
11 government pursuant to 8 U.S.C. § 1373(c) and relying upon any
12 verification provided by the federal government.

13 (b) Any alien who is arrested and booked into
14 custody shall have his or her immigration status determined
15 pursuant to 8 U.S.C. § 1373(c). The alien's immigration status
16 shall be verified by contacting the federal government
17 pursuant to 8 U.S.C. § 1373(c) within 24 hours of the time of
18 the alien's arrest. If for any reason federal verification
19 pursuant to 8 U.S.C. § 1373(c) is delayed beyond the time that
20 the alien would otherwise be released from custody, the alien
21 shall be released from custody.

22 (c) A law enforcement officer shall not attempt to
23 independently make a final determination of whether an alien
24 is lawfully present in the United States. A law enforcement
25 officer may not consider race, color, or national origin in

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1 implementing the requirements of this section except to the
2 extent permitted by the United States Constitution or the
3 Constitution of Alabama of 1901.

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

7 (1) A valid, unexpired Alabama driver's license.

8 (2) A valid, unexpired Alabama nondriver
9 identification card.

10 (3) A valid tribal enrollment card or other form of
11 tribal identification bearing a photograph or other biometric
12 identifier.

13 (4) Any valid United States federal or state
14 government issued identification document bearing a photograph
15 or other biometric identifier, if issued by an entity that
16 requires proof of lawful presence in the United States before
17 issuance.

18 (5) A foreign passport with an unexpired United
19 States Visa and a corresponding stamp or notation by the
20 United States Department of Homeland Security indicating the
21 bearer's admission to the United States.

22 (6) A foreign passport issued by a visa waiver
23 country with the corresponding entry stamp and unexpired
24 duration of stay annotation or an I-94W form by the United

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1 States Department of Homeland Security indicating the bearer's
2 admission to the United States.

3 (e) If an alien is determined by the federal
4 government to be an alien who is unlawfully present in the
5 United States pursuant to 8 U.S.C. § 1373(c), the law
6 enforcement agency shall cooperate in the transfer of the
7 alien to the custody of the federal government, if the federal
8 government so requests.

9 Section 13. (a) It shall be unlawful for a person to
10 do any of the following:

11 (1) Conceal, harbor, or shield or attempt to
12 conceal, harbor, or shield or conspire to conceal, harbor, or
13 shield an alien from detection in any place in this state,
14 including any building or any means of transportation, if the
15 person knows or recklessly disregards the fact that the alien
16 has come to, has entered, or remains in the United States in
17 violation of federal law.

18 (2) Encourage or induce an alien to come to or
19 reside in this state if the person knows or recklessly
20 disregards the fact that such coming to, entering, or residing
21 in the United States is or will be in violation of federal
22 law.

23 (3) Transport, or attempt to transport, or conspire
24 to transport in this state an alien in furtherance of the
25 unlawful presence of the alien in the United States,

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1 knowingly, or in reckless disregard of the fact, that the
2 alien has come to, entered, or remained in the United States
3 in violation of federal law. Conspiracy to be so transported
4 shall be a violation of this subdivision.

5 (4) Harbor an alien unlawfully present in the United
6 States by entering into a rental agreement, as defined by
7 Section 35-9A-141 of the Code of Alabama 1975, with an alien
8 to provide accommodations, if the person knows or recklessly
9 disregards the fact that the alien is unlawfully present in
10 the United States.

11 (b) Any person violating the provisions of this
12 section is guilty of a Class A misdemeanor for each unlawfully
13 present alien, the illegal presence of which in the United
14 States and the State of Alabama, he or she is facilitating or
15 is attempting to facilitate.

16 (c) A person violating the provisions of this
17 section is guilty of a Class C felony when the violation
18 involves 10 or more aliens, the illegal presence of which in
19 the United States and the State of Alabama, he or she is
20 facilitating or is attempting to facilitate.

21 (d) Notwithstanding any other law, a law enforcement
22 agency may securely transport an alien whom the agency has
23 received verification from the federal government pursuant to
24 8 U.S.C. § 1373(c) is unlawfully present in the United States
25 and who is in the agency's custody to a state approved

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1 facility, to a federal facility in this state, or to any other
2 point of transfer into federal custody that is outside the
3 jurisdiction of the law enforcement agency. A law enforcement
4 agency shall obtain judicial or executive authorization from
5 the Governor before securely transporting an alien who is
6 unlawfully present in the United States to a point of transfer
7 that is outside this state.

8 (e) Notwithstanding any other law, any person acting
9 in his or her official capacity as a first responder or
10 protective services provider may harbor, shelter, move, or
11 transport an alien unlawfully present in the United States
12 pursuant to state law.

13 (f) Any conveyance, including any vessel, vehicle,
14 or aircraft, that has been or is being used in the commission
15 of a violation of this section, and the gross proceeds of such
16 a violation, shall be subject to civil forfeiture under the
17 procedures of Section 20-2-93 of the Code of Alabama 1975.

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

24 (h) Any record that relates to the immigration
25 status of a person is admissible in any court of this state

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

10 Section 14. (a) A person commits the crime of
11 dealing in false identification documents if he or she
12 knowingly reproduces, manufactures, sells, or offers for sale
13 any identification document which does both of the following:

14 (1) Simulates, purports to be, or is designed so as
15 to cause others reasonably to believe it to be an
16 identification document.

17 (2) Bears a fictitious name or other false
18 information.

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

22 (1) Supplies false information intending that the
23 information be used to obtain a certified copy of a vital
24 record.

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

4 (3) Obtains, possesses, uses, sells, or furnishes,
5 or attempts to obtain, possess, or furnish to another a
6 certified copy of a vital record, with the intent to deceive.

7 (c) (1) Dealing in false identification documents is
8 a Class C felony.

9 (2) Vital records identity fraud is a Class C
10 felony.

11 (d) The provisions of this section shall not apply
12 to any of the following:

13 (1) A person less than 21 years of age who uses the
14 identification document of another person to acquire an
15 alcoholic beverage.

16 (2) A person less than 19 years of age who uses the
17 identification documents of another person to acquire any of
18 the following:

19 a. Cigarettes or tobacco products.

20 b. A periodical, videotape, or other communication
21 medium that contains or depicts nudity.

22 c. Admittance to a performance, live or film, that
23 prohibits the attendance of the person based on age.

24 d. An item that is prohibited by law for use or
25 consumption by such person.

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

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

22 Section 15. (a) No business entity, employer, or
23 public employer shall knowingly employ, hire for employment,
24 or continue to employ an unauthorized alien to perform work
25 within the State of Alabama. Knowingly employ, hire for

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1 employment, or continue to employ an unauthorized alien means
2 the actions described in 8 U.S.C. § 1324a.

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

11 (c) On a finding of a first violation by a court of
12 competent jurisdiction that a business entity or employer
13 knowingly violated subsection (a), the court shall do all of
14 the following:

15 (1) Order the business entity or employer to
16 terminate the employment of every unauthorized alien.

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

23 (3) Order the business entity or employer to file a
24 signed, sworn affidavit with the local district attorney
25 within three days after the order is issued by the court

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

5 (4) Direct the applicable state, county, or
6 municipal governing bodies to suspend the business licenses
7 and permits, if such exist, of the business entity or employer
8 for a period not to exceed 10 business days specific to the
9 business location where the unauthorized alien performed work.

10 (d) (1) Before a business license or permit that has
11 been suspended under subsection (c) is reinstated, a legal
12 representative of the business entity or employer shall submit
13 to the court a signed, sworn affidavit stating that the
14 business entity or employer is in compliance with the
15 provisions of this act and a copy of the Memorandum of
16 Understanding issued to the business entity or employer at the
17 time of enrollment in E-Verify.

18 (2) The suspension of a business license or permit
19 under subsection (c) shall terminate one business day after a
20 legal representative of the business entity or employer
21 submits a signed, sworn affidavit stating that the business
22 entity or employer is in compliance with the provisions of
23 this act to the court.

24 (e) For a second violation of subsection (a) by a
25 business entity or employer, the court shall direct the

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1 applicable state, county, or municipal governing body to
2 permanently revoke all business licenses and permits, if such
3 exist, held by the business entity or employer specific to the
4 business location where the unauthorized alien performed work.
5 On receipt of the order, and notwithstanding any other law,
6 the appropriate agencies shall immediately revoke the licenses
7 and permits held by the business entity or employer.

8 (f) For a subsequent violation of subsection (a),
9 the court shall direct the applicable governing bodies to
10 forever suspend the business licenses and permits, if such
11 exist, of the business entity or employer throughout the
12 state.

13 (g) This section shall not be construed to deny any
14 procedural mechanisms or legal defenses included in the
15 E-Verify program or any other federal work authorization
16 program. A person or entity that establishes that it has
17 complied in good faith with the requirements of 8 U.S.C. §
18 1324a(b) establishes an affirmative defense that the business
19 entity or employer did not knowingly hire or employ an
20 unauthorized alien.

21 (h) In proceedings of the court, the determination
22 of whether an employee is an unauthorized alien shall be made
23 by the federal government, pursuant to 8 U.S.C. § 1373(c). The
24 court shall consider only the federal government's
25 determination when deciding whether an employee is an

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1 unauthorized alien. The court may take judicial notice of any
2 verification of an individual's immigration status previously
3 provided by the federal government and may request the federal
4 government to provide further automated or testimonial
5 verification.

6 (i) Any business entity or employer that terminates
7 an employee to comply with this section shall not be liable
8 for any claims made against the business entity or employer by
9 the terminated employee, provided that such termination is
10 made without regard to the race, ethnicity, or national origin
11 of the employee and that such termination is consistent with
12 the anti-discrimination laws of this state and of the United
13 States.

14 (j) If any agency of the state or any political
15 subdivision thereof fails to suspend the business licenses or
16 permits, if such exist, as a result of a violation of this
17 section, the agency shall be deemed to have violated
18 subsection (a) of Section 5 and shall be subject to the
19 penalties thereunder.

20 (k) In addition to the district attorneys of this
21 state, the Attorney General shall also have authority to bring
22 a civil complaint in any court of competent jurisdiction to
23 enforce the requirements of this section.

24 (l) Any resident of this state may petition the
25 Attorney General to bring an enforcement action against a

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1 specific business entity or employer by means of a written,
2 signed petition. A valid petition shall include an allegation
3 that describes the alleged violator or violators, as well as
4 the action constituting the violation, and the date and
5 location where the action occurred.

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

9 (3) The Attorney General shall respond to any
10 petition under this subdivision within 60 days of receiving
11 the petition, either by filing a civil complaint in a court of
12 competent jurisdiction or by informing the petitioner in
13 writing that the Attorney General has determined that filing a
14 civil complaint is not warranted.

15 (1) This section does not apply to the relationship
16 between a party and the employees of an independent contractor
17 performing work for the party and does not apply to casual
18 domestic labor performed within a household.

19 (m) It is an affirmative defense to a violation of
20 subsection (a) of this section that a business entity or
21 employer was entrapped.

22 (1) To claim entrapment, the business entity or
23 employer must admit by testimony or other evidence the
24 substantial elements of the violation.

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

4 a. The idea of committing the violation started with
5 law enforcement officers or their agents rather than with the
6 business entity or employer.

7 b. The law enforcement officers or their agents
8 urged and induced the business entity or employer to commit
9 the violation.

10 c. The business entity or employer was not already
11 predisposed to commit the violation before the law enforcement
12 officers or their agents urged and induced the employer to
13 commit the violation.

14 (n) In addition to actions taken by the state or
15 political subdivisions thereof, the Attorney General or the
16 district attorney of the relevant county may bring an action
17 to enforce the requirements of this section in any county
18 district court of this state wherein the business entity or
19 employer does business.

20 (o) The terms of this section shall be interpreted
21 consistently with 8 U.S.C. § 1324a and any applicable federal
22 rules and regulations.

23 Section 16. (a) No wage, compensation, whether in
24 money or in kind or in services, or remuneration of any kind
25 for the performance of services paid to an unauthorized alien

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1 shall be allowed as a deductible business expense for any
2 state income or business tax purposes in this state. This
3 subsection shall apply whether or not an Internal Revenue
4 Service Form 1099 is issued in conjunction with the wages or
5 remuneration.

6 (b) Any business entity or employer who knowingly
7 fails to comply with the requirements of this section shall be
8 liable for a penalty equal to 10 times the business expense
9 deduction claimed in violation of subsection (a). The penalty
10 provided in this subsection shall be payable to the Alabama
11 Department of Revenue.

12 Section 17. (a) It shall be a discriminatory
13 practice for a business entity or employer to fail to hire a
14 job applicant who is a United States citizen or an alien who
15 is authorized to work in the United States as defined in 8
16 U.S.C. § 1324a(h) (3) or discharge an employee working in
17 Alabama who is a United States citizen or an alien who is
18 authorized to work in the United States as defined in 8 U.S.C.
19 § 1324a(h) (3) while retaining or hiring an employee who the
20 business entity or employer knows, or reasonably should have
21 known, is an unauthorized alien.

22 (b) A violation of subsection (a) may be the basis
23 of a civil action in the state courts of this state. Any
24 recovery under this subsection shall be limited to

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1 compensatory relief and shall not include any civil or
2 criminal sanctions against the employer.

3 (c) The losing party in any civil action shall pay
4 the court costs and reasonable attorneys fees for the
5 prevailing party; however, the losing party shall only pay the
6 attorneys fees of the prevailing party up to the amount paid
7 by the losing party for his or her own attorneys fees.

8 (d) The amount of the attorneys fees spent by each
9 party shall be reported to the court before the verdict is
10 rendered.

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

21 Section 18. Section 32-6-9, Code of Alabama 1975, is
22 amended to read as follows:

23 "§32-6-9.

24 "(a) Every licensee shall have his or her license in
25 his or her immediate possession at all times when driving a

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1 motor vehicle and shall display the same, upon demand of a
2 judge of any court, a peace officer or a state trooper.
3 However, no person charged with violating this section shall
4 be convicted if he or she produces in court or the office of
5 the arresting officer a driver's license theretofore issued to
6 him or her and valid at the time of his or her arrest.

7 "(b) Notwithstanding the provisions of Section
8 32-1-4, if a law officer arrests a person for a violation of
9 this section and the officer is unable to determine by any
10 other means that the person has a valid driver's license, the
11 officer shall transport the person to the nearest or most
12 accessible magistrate.

13 "(c) A reasonable effort shall be made to determine
14 the citizenship of the person and if an alien, whether the
15 alien is lawfully present in the United States by verification
16 with the federal government pursuant to 8 U.S.C. § 1373(c). An
17 officer shall not attempt to independently make a final
18 determination of whether an alien is lawfully present in the
19 United States.

20 (d) A verification inquiry, pursuant to 8 U.S.C. §
21 1373(c), shall be made within 48 hours to the Law Enforcement
22 Support Center of the United States Department of Homeland
23 Security or other office or agency designated for that purpose
24 by the federal government. If the person is determined to be
25 an alien unlawfully present in the United States, the person

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1 shall be considered a flight risk and shall be detained until
2 prosecution or until handed over to federal immigration
3 authorities."

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

10 (b) A verification inquiry, pursuant to 8 U.S.C. §
11 1373(c), shall be made within 48 hours to the Law Enforcement
12 Support Center of the United States Department of Homeland
13 Security or other office or agency designated for that purpose
14 by the federal government. If the person is determined to be
15 an alien unlawfully present in the United States, the person
16 shall be considered a flight risk and shall be detained until
17 prosecution or until handed over to federal immigration
18 authorities.

19 Section 20. If an alien who is unlawfully present in
20 the United States is convicted of a violation of state or
21 local law and is within 30 days of release or has paid any
22 fine as required by operation of law, the agency responsible
23 for his or her incarceration shall notify the United States
24 Bureau of Immigration and Customs Enforcement and the Alabama
25 Department of Homeland Security, pursuant to 8 U.S.C. § 1373.

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1 The Alabama Department of Homeland Security shall assist in
2 the coordination of the transfer of the prisoner to the
3 appropriate federal immigration authorities; however, the
4 Alabama Department of Corrections shall maintain custody
5 during any transfer of the individual.

6 Section 21. If a person is an alien who is
7 unlawfully present in the United States and is a victim of a
8 criminal act, is the child of a victim of a criminal act, is a
9 critical witness in any prosecution, or is the child of a
10 critical witness in any prosecution of a state or federal
11 crime, all provisions of this act shall be stayed until all of
12 the related legal proceedings are concluded. However, the
13 relevant state, county, or local law enforcement agency shall
14 comply with any request by federal immigration officers to
15 take custody of the person.

16 Section 22. (a) Notwithstanding the provisions of
17 Section 31-9A-9 of the Code of Alabama 1975, the Alabama
18 Department of Homeland Security may hire, appoint, and
19 maintain APOST certified state law enforcement officers. Such
20 officers shall receive the same rights and benefits as those
21 prescribed to officers of the Alabama Department of Public
22 Safety, except for the purposes of retirement. The officers
23 shall have the same retirement benefits as a law enforcement
24 officer as defined under Section 36-27-59 of the Code of
25 Alabama 1975.

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1 (b) Unless a violation of state law occurs in their
2 presence, officers authorized under this section shall not
3 engage in routine law enforcement activity, except for those
4 investigative and analytical duties necessary to carry out the
5 enforcement of this act and to fulfill the mission of the
6 Alabama Department of Homeland Security or those duties
7 necessary to provide assistance to other law enforcement
8 agencies.

9 (c) The Director of the Alabama Department of
10 Homeland Security shall have the authority to promulgate rules
11 for the enforcement of this act.

12 Section 23. The Alabama Department of Homeland
13 Security shall have the authority to coordinate with state and
14 local law enforcement the practice and methods required to
15 enforce this act in cooperation with federal immigration
16 authorities and consistent with federal immigration laws.

17 Section 24. The Alabama Department of Homeland
18 Security shall file a quarterly report to the Legislature on
19 the progress being made regarding the enforcement of this act
20 and the status of the progress being made in the effort to
21 reduce the number of illegal aliens in the State of Alabama.
22 The report shall include, but is not limited to, the
23 statistics and results from the enforcement of the sections of
24 this act, and suggestions on what can be done including
25 additional legislation to further assist the federal

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1 government in its efforts to apprehend illegal aliens in the
2 State of Alabama. At the start of the 2013 fiscal year, the
3 report shall be filed twice a year. At the start of the 2015
4 fiscal year, the report is required annually. This report
5 shall also be made available to the public and shall be
6 announced through a press release from the Attorney General's
7 office.

8 Section 25. (a) A solicitation to violate any
9 criminal provision of this act, an attempt to violate any
10 criminal provision of this act, or a conspiracy to violate any
11 criminal provision of this act shall have the same penalty as
12 a violation of this act.

13 (b) For the purposes of this section, solicitation
14 shall have the same principles of liability and defenses as
15 criminal solicitation under subsections (b) through (e) of
16 Section 13A-4-1, Code of Alabama 1975, and Section 13A-4-5,
17 Code of Alabama 1975.

18 (c) For the purposes of this section, attempt shall
19 have the same principles of liability and defenses as attempt
20 under subsections (b) and (c) of Section 13A-4-2, Code of
21 Alabama 1975, and Section 13A-4-5, Code of Alabama 1975.

22 (d) For the purposes of this section, conspiracy
23 shall have the same principles of liability and defenses as
24 criminal conspiracy under subsections (b) through (f) of

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1 Section 13A-4-3, Code of Alabama 1975, and Sections 13A-4-4
2 and 13A-4-5, Code of Alabama 1975.

3 Section 26. (a) (1) The Alabama Department of
4 Homeland Security shall establish and maintain an E-Verify
5 employer agent service for any business entity or employer in
6 this state with 25 or fewer employees to use the E-Verify
7 program to verify an employee's employment eligibility on
8 behalf of the business entity or employer. The Alabama
9 Department of Homeland Security shall establish an E-Verify
10 employer agent account with the United States Department of
11 Homeland Security, shall enroll a participating business
12 entity or employer in the E-Verify program on its behalf, and
13 shall conform to all federal statutes and regulations
14 governing E-Verify employer agents. The Alabama Department of
15 Homeland Security shall not charge a fee to a participating
16 business entity or employer for this service.

17 (2) The Alabama Department of Homeland Security
18 E-Verify employer agent service shall be in place within 90
19 days after the effective date of this act. The service shall
20 accommodate a business entity or employer who wishes to
21 communicate with the Alabama Department of Homeland Security
22 by internet, by electronic mail, by facsimile machine, by
23 telephone, or in person, provided that such communication is
24 consistent with federal statutes and regulations governing
25 E-Verify employer agents.

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1 (b) On or after January 1, 2012, before receiving
2 any contract, grant, or incentive by the state, any political
3 subdivision thereof, or any state-funded entity, a business
4 entity or employer shall provide proof to the state, political
5 subdivision thereof, or state-funded entity that the business
6 entity or employer is enrolled and is participating in the
7 E-Verify program, either independently or through the Alabama
8 Department of Homeland Security E-Verify employer agent
9 service.

10 (c) Every three months, the Alabama Department of
11 Homeland Security shall request from the United States
12 Department of Homeland Security a list of every business
13 entity or employer in this state that is enrolled in the
14 E-Verify program. On receipt of the list, the Alabama
15 Department of Homeland Security shall make the list available
16 on its website.

17 (d) A business entity or employer that is enrolled
18 in the E-Verify program and that verifies the employment
19 eligibility of an employee in good faith pursuant to this
20 section, and acts in conformity with all applicable federal
21 statutes and regulations is immune from liability under
22 Alabama law for any action by an employee for wrongful
23 discharge or retaliation based on a notification from the
24 E-Verify program that the employee is an unauthorized alien.

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1 Section 27. (a) No court of this state shall enforce
2 the terms of, or otherwise regard as valid, any contract
3 between a party and an alien unlawfully present in the United
4 States, if the party had direct or constructive knowledge that
5 the alien was unlawfully present in the United States at the
6 time the contract was entered into, and the performance of the
7 contract required the alien to remain unlawfully present in
8 the United States for more than 24 hours after the time the
9 contract was entered into or performance could not reasonably
10 be expected to occur without such remaining.

11 (b) This section shall not apply to a contract for
12 lodging for one night, a contract for the purchase of food to
13 be consumed by the alien, a contract for medical services, or
14 a contract for transportation of the alien that is intended to
15 facilitate the alien's return to his or her country of origin.

16 (c) This section shall not apply to a contract
17 authorized by federal law.

18 (d) In proceedings of the court, the determination
19 of whether an alien is unlawfully present in the United States
20 shall be made by the federal government, pursuant to 8 U.S.C.
21 § 1373(c). The court shall consider only the federal
22 government's determination when deciding whether an alien is
23 unlawfully present in the United States. The court may take
24 judicial notice of any verification of an individual's
25 immigration status previously provided by the federal

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1 government and may request the federal government to provide
2 further automated or testimonial verification.

3 Section 28. (a) (1) Every public elementary and
4 secondary school in this state, at the time of enrollment in
5 kindergarten or any grade in such school, shall determine
6 whether the student enrolling in public school was born
7 outside the jurisdiction of the United States or is the child
8 of an alien not lawfully present in the United States and
9 qualifies for assignment to an English as Second Language
10 class or other remedial program.

11 (2) The public school, when making the determination
12 required by subdivision (1), shall rely upon presentation of
13 the student's original birth certificate, or a certified copy
14 thereof.

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

24 (4) Notification shall consist of both of the
25 following:

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1 a. The presentation for inspection, to a school
2 official designated for such purpose by the school district in
3 which the child is enrolled, of official documentation
4 establishing the citizenship and, in the case of an alien, the
5 immigration status of the student, or alternatively by
6 submission of a notarized copy of such documentation to such
7 official.

8 b. Attestation by the parent, guardian, or legal
9 custodian, under penalty of perjury, that the document states
10 the true identity of the child. If the student or his or her
11 parent, guardian, or legal representative possesses no such
12 documentation but nevertheless maintains that the student is
13 either a United States citizen or an alien lawfully present in
14 the United States, the parent, guardian, or legal
15 representative of the student may sign a declaration so
16 stating, under penalty of perjury.

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

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

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

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

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

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

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

24 (5) The State Board of Education shall prepare and
25 issue objective baseline criteria for identifying and

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1 assessing the other educational impacts on the quality of
2 education provided to students who are citizens of the United
3 States, due to the enrollment of aliens who are not lawfully
4 present in the United states, in addition to the statistical
5 data on citizenship and immigration status and English as a
6 Second Language enrollment required by this act. The State
7 Board of Education may contract with reputable scholars and
8 research institutions to identify and validate such criteria.
9 The State Board of Education shall assess such educational
10 impacts and include such assessments in its reports to the
11 Legislature.

12 (e) Public disclosure by any person of information
13 obtained pursuant to this section which personally identifies
14 any student shall be unlawful, except for purposes permitted
15 pursuant to 8 U.S.C. §§ 1373 and 1644. Any person intending to
16 make a public disclosure of information that is classified as
17 confidential under this section, on the ground that such
18 disclosure constitutes a use permitted by federal law, shall
19 first apply to the Attorney General and receive a waiver of
20 confidentiality from the requirements of this subsection.

21 (f) A student whose personal identity has been
22 negligently or intentionally disclosed in violation of this
23 section shall be deemed to have suffered an invasion of the
24 student's right to privacy. The student shall have a civil

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1 remedy for such violation against the agency or person that
2 has made the unauthorized disclosure.

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

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

7 Section 29. (a) Applications for voter registration
8 shall give voter eligibility requirements and such information
9 as is necessary to prevent duplicative voter registrations and
10 enable the relevant election officer to assess the eligibility
11 of the applicant and to administer voter registration,
12 identify the applicant and to determine the qualifications of
13 the applicant as an elector and the facts authorizing such
14 person to be registered. Applications shall contain a
15 statement that the applicant shall be required to provide
16 qualifying identification when voting.

17 (b) The Secretary of State shall create a process
18 for the county election officer to check to indicate whether
19 an applicant has provided with the application the information
20 necessary to assess the eligibility of the applicant,
21 including the applicant's United States citizenship. This
22 section shall be interpreted and applied in accordance with
23 federal law. No eligible applicant whose qualifications have
24 been assessed shall be denied registration.

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1 (c) The county election officer or Secretary of
2 State's office shall accept any completed application for
3 registration, but an applicant shall not be registered until
4 the applicant has provided satisfactory evidence of United
5 States citizenship. Satisfactory evidence of United States
6 citizenship shall be provided in person at the time of filing
7 the application for registration or by including, with a
8 mailed registration application, a photocopy of one of the
9 documents listed as evidence of United States citizenship in
10 subsection (k). After a person has submitted satisfactory
11 evidence of citizenship, the county election officer shall
12 indicate this information in the person's permanent voter
13 file.

14 (d) Any person who is registered in this state on
15 the effective date of this act is deemed to have provided
16 satisfactory evidence of United States citizenship and shall
17 not be required to submit evidence of citizenship.

18 (e) For purposes of this section, proof of voter
19 registration from another state is not satisfactory evidence
20 of United States citizenship.

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

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1 (g) If evidence of United States citizenship is
2 deemed to be unsatisfactory due to an inconsistency between
3 the document submitted as evidence and the name or sex
4 provided on the application for registration, such applicant
5 may sign an affidavit containing both of the following:

6 (1) Stating the inconsistency or inconsistencies
7 related to the name or sex, and the reason therefor.

8 (2) Swearing under oath that, despite the
9 inconsistency, the applicant is the individual reflected in
10 the document provided as evidence of citizenship.

11 (h) There shall be no inconsistency between the date
12 of birth on the document provided as evidence of citizenship
13 and the date of birth provided on the application for
14 registration. If such an affidavit is submitted by the
15 applicant, the county election officer or Secretary of State
16 shall assess the eligibility of the applicant without regard
17 to any inconsistency stated in the affidavit.

18 (i) All documents submitted as evidence of United
19 States citizenship shall be kept confidential by the county
20 election officer or the Secretary of State and maintained as
21 provided by record retention laws.

22 (j) Nothing in this section shall prohibit an
23 applicant from providing, or the Secretary of State or county
24 election officer from obtaining, satisfactory evidence of
25 United States citizenship, as described in this section, at a

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1 different time or in a different manner than an application
2 for registration is provided, as long as the applicant's
3 eligibility can be adequately assessed by the Secretary of
4 State or county election officer as required by this section.

5 (k) Evidence of United States citizenship shall be
6 demonstrated by one of the following documents, or a legible
7 photocopy of one of the following documents:

8 (1) The applicant's driver's license or nondriver's
9 identification card issued by the division of motor vehicles
10 or the equivalent governmental agency of another state within
11 the United States if the agency indicates on the applicant's
12 driver's license or nondriver's identification card that the
13 person has provided satisfactory proof of United States
14 citizenship.

15 (2) The applicant's birth certificate that verifies
16 United States citizenship to the satisfaction of the county
17 election officer or Secretary of State.

18 (3) Pertinent pages of the applicant's United States
19 valid or expired passport identifying the applicant and the
20 applicant's passport number, or presentation to the county
21 election officer of the applicant's United States passport.

22 (4) The applicant's United States naturalization
23 documents or the number of the certificate of naturalization.
24 If only the number of the certificate of naturalization is
25 provided, the applicant shall not be included in the

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1 registration rolls until the number of the certificate of
2 naturalization is verified with the United States Bureau of
3 Citizenship and Immigration Services by the county election
4 officer or the Secretary of State, pursuant to 8 U.S.C. §
5 1373(c).

6 (5) Other documents or methods of proof of United
7 States citizenship issued by the federal government pursuant
8 to the Immigration and Nationality Act of 1952, and amendments
9 thereto.

10 (6) The applicant's Bureau of Indian Affairs card
11 number, tribal treaty card number, or tribal enrollment
12 number.

13 (7) The applicant's consular report of birth abroad
14 of a citizen of the United States of America.

15 (8) The applicant's certificate of citizenship
16 issued by the United States Citizenship and Immigration
17 Services.

18 (9) The applicant's certification of report of birth
19 issued by the United States Department of State.

20 (10) The applicant's American Indian card, with KIC
21 classification, issued by the United States Department of
22 Homeland Security.

23 (11) The applicant's final adoption decree showing
24 the applicant's name and United States birthplace.

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

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

8 (1) There is hereby established the State Election
9 Board, consisting of the Secretary of State, the Attorney
10 General, and the Lieutenant Governor. The State Election Board
11 shall meet on the call of the Secretary of State. The State
12 Election Board shall do both of the following:

13 (1) Assess information provided by any applicant for
14 voter registration as evidence of citizenship pursuant to
15 subsection (m).

16 (2) Adopt rules to implement subsection (m).

17 (m) (1) If an applicant is a United States citizen
18 but does not have any of the documentation listed in this
19 section as satisfactory evidence of United States citizenship,
20 the applicant may submit any evidence that the applicant
21 believes demonstrates the applicant's United States
22 citizenship.

23 (2) Any applicant seeking an assessment of evidence
24 under this section may directly contact the office of the
25 Secretary of State by submitting a voter registration

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1 application or the national voter registration form and any
2 supporting evidence of United States citizenship. Upon receipt
3 of this information, the Secretary of State shall notify the
4 State Election Board that such application is pending.

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

12 (4) The State Election Board shall assess the
13 evidence provided by the applicant to determine whether the
14 applicant has provided satisfactory evidence of United States
15 citizenship. A decision of the State Election Board shall be
16 determined by a majority vote of the board.

17 (5) If an applicant submits an application and any
18 supporting evidence prior to the close of registration for an
19 election cycle, a determination by the State Election Board
20 shall be issued at least five days before such election date.

21 (6) If the State Election Board finds that the
22 evidence presented by the applicant constitutes satisfactory
23 evidence of United States citizenship, the applicant shall
24 meet the requirements under this section to provide
25 satisfactory evidence of United States citizenship.

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

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

18 a. That the person plans to register to vote in this
19 state.

20 b. That the person does not possess any of the
21 documents that constitute evidence of United States
22 citizenship as defined in this act.

23 (2) The affidavit shall specifically list the
24 documents that constitute evidence of United States
25 citizenship as defined in this act.

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1 Section 30. (a) For the purposes of this section,
2 "business transaction" includes any transaction between a
3 person and the state or a political subdivision of the state,
4 including, but not limited to, applying for or renewing a
5 motor vehicle license plate, applying for or renewing a
6 driver's license or nondriver identification card, or applying
7 for or renewing a business license. "Business transaction"
8 does not include applying for a marriage license.

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

15 (c) Any person entering into a business transaction
16 or attempting to enter into a business transaction with this
17 state or a political subdivision of this state shall be
18 required to demonstrate his or her United States citizenship,
19 or if he or she is an alien, his or her lawful presence in the
20 United States to the person conducting the business
21 transaction on behalf of this state or a political subdivision
22 of this state. United States citizenship shall be demonstrated
23 by presentation of one of the documents listed in Section
24 29(k). An alien's lawful presence in the United States shall
25 be demonstrated by this state's or a political subdivision of

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1 this state's verification of the alien's lawful presence
2 through the Systematic Alien Verification for Entitlements
3 program operated by the Department of Homeland Security, or by
4 other verification with the Department of Homeland Security
5 pursuant to 8 U.S.C. § 1373(c).

6 (d) A violation of this section is a Class C felony.

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

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

19 Section 31. Nothing in this act is in any way meant
20 to implement, authorize, or establish the Real ID Act of 2005
21 (P.L. 109-13, Division D; 119 Stat. 302).

22 Section 32. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now

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1 appearing as Section 111.05 of the Official Recompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 33. The provisions of this act are
6 severable. If any part of this act is declared invalid or
7 unconstitutional, that declaration shall not affect the part
8 which remains.

9 Section 34. Sections 22 and 23 of this act shall
10 become effective immediately following the passage and
11 approval of this act by the Governor, or its otherwise
12 becoming law. Section 9 shall become effective on January 1,
13 2012, following the passage and approval of this act by the
14 Governor, or its otherwise becoming law. Section 15 shall
15 become effective on April 1, 2012, following the passage and
16 approval of this act by the Governor, or its otherwise
17 becoming law. The remainder of this act shall become effective
18 on the first day of the third month following the passage and
19 approval of this act by the Governor, or its otherwise
20 becoming law.

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Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 05-APR-11, as amended.

Greg Pappas
Clerk

Senate	05-MAY-11	Amended and Passed
House	02-JUN-11	Passed, as amended by Conference Com- mittee Report
Senate	02-JUN-11	Passed, as amended by Conference Com- mittee Report

APPROVED *June 9, 2011*

TIME

8:30 am
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2011-535
Bill Num....: H-56