

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3830
Version: As Introduced

DATE: May 6, 2010

Authors: Drazkowski

Subject: Immigration

Analyst: Jeff Diebel

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill proposes the Support Our Law Enforcement and Safe Neighborhoods Act. The bill contains a variety of initiatives intended to address illegal immigration in the state. The bill: establishes eligibility criteria for federal and state public benefits; requires law enforcement to enforce federal immigration laws; requires possession of alien identification cards; prohibits the transporting and smuggling of illegal immigrants; prohibits illegal immigrants from working or soliciting work in the state; prohibits the employment of illegal aliens; creates the Minnesota Illegal Immigration Enforcement Team; and requires the attorney general to represent the state against any challenges to this act.

Section

- 1 Title.** The “Support Our Law Enforcement and Safe Neighborhoods Act.”
- 2 Intent.** States the intent of the act.
- 3 Eligibility for Federal Public Benefits.** Requires an applicant for federal public benefits administered by the state to present valid ID and submit a sworn affidavit that indicate that the applicant is lawfully present in the USA.
 - Imposes misdemeanor penalties on public employees who fail to report federal immigration violations discovered in the benefit application process.
 - Authorizes any resident of the state to sue an agency that is not following this statute.

4 Eligibility for State and Local Public Benefits. Requires an applicant for state public benefits to present valid ID and submit a sworn affidavit that indicate that the applicant is lawfully present in the USA.

- Imposes misdemeanor penalties on public employees who fail to report federal immigration violations discovered in the benefit application process.
- Authorizes any resident of the state to sue an agency that is not following this statute.

5 Cooperation and Assistance in Enforcement of Immigration Laws.

- Prohibits a government entity from limiting or restricting enforcement of federal immigration laws.
- Requires a law enforcement officer to make a reasonable attempt to determine the legal status of a person who the officer lawfully stops and believes to be an unauthorized alien.
- Requires that any person who is arrested must have their immigration status determined prior to being released.
- Lists the type of documents that establish lawful presence.
- Prohibits law enforcement from considering race, color, or national origin in implementing this section.
- Authorizes law enforcement to transport undocumented aliens to a federal facility. If the federal facility is outside of the state, judicial authorization is required.
- Bars a government entity from prohibiting or limiting the authority of its employees from sending, receiving, or maintaining information relating to immigration status.
- Authorizes any resident of the state to sue an agency that is not following this statute.
- Requires law enforcement agencies to indemnify officers who are sued for exercising the authority granted in this section.

6 Willful Failure to Complete or Carry an Alien Registration Document.

- Establishes a misdemeanor offense for violating federal immigration laws that require aliens to complete and carry alien registration documents. Establishes a maximum fine of \$100 and a sentence of up to 20 days for a first offense and 30 days for a subsequent violation.
- Bars judges from issuing a suspended sentence, probation, or early release to persons convicted under this section.
- Prohibits law enforcement from considering race, color, or national origin in implementing this section.

7 Unlawful Application, Solicitation, or Employment.

- Specifies that it is a misdemeanor for a person who is an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor.
- Defines *solicit* and *unauthorized alien*.
- Prohibits law enforcement from considering race, color, or national origin in implementing this section.

8 Unlawful Transporting, Moving, Concealing, Harboring, or Shielding of Unlawful Aliens.

- Stipulates that it is unlawful for a person to:
 - Transport or move an alien in a means of transportation, or attempt to do so, if the person knows or recklessly disregards the fact that the alien is here unlawfully.
 - Conceal, harbor or shield an alien, or attempt to, if the person knows or recklessly disregards the fact that the alien is here unlawfully.
 - Encourage or induce an alien to come to this state if the person knows or recklessly disregards the fact that doing so would be a violation of law.
- Stipulates that violators are guilty of a gross misdemeanor and subject to a fine of at least \$1,000. A violation involving ten or more illegal aliens is a felony and subject to a fine of at least \$1,000 for each alien involved.
- Prohibits law enforcement from considering race, color, or national origin in implementing this section.
- Specifies that a means of transportation used in a violation of these provisions is subject to vehicle immobilization or impoundment.
- Specifies that these provisions do not apply to a Child Protective Services worker acting in the worker's official capacity or a person who is acting in the capacity of a first responder, an ambulance attendant or an emergency medical technician and is transporting or moving an alien in relation to emergency medical services.

9 Smuggling.

- Establishes a felony penalty for smuggling illegal aliens. A five-year felony applies when a minor is smuggled and no adult relative is present.
- Authorizes a peace officer to stop any person who the officer has reasonable suspicion to believe is in violation of any civil traffic law and this section.
- Defines *family member*, *procurement of transportation*, and *smuggling of human beings*.

10 Knowingly Employing Unauthorized Aliens.

- Prohibits an employer from knowingly employing an unauthorized alien.
- Establishes protocols for citizens to file a complaint alleging a violation of this

section and for the state to investigate the complaints.

- Requires county attorneys to file suit against employers that are believed to be in violation of this section.
- Requires courts to take the following steps if a violation of this section is established:
 - Order the employer to terminate all unauthorized aliens;
 - Place the employer on probation for 3-years for the location the violation occurred during which time the employer must file quarterly reports with the county attorney listing each new employee hired by the employer at the location of the violation;
 - Require the employer to file a sworn affidavit stating that the employer has terminated all unauthorized aliens and will not violate this section again – failure to file the report will result in suspension of state licenses;
 - Consider suspending state licenses held by the employer for up to 10 days; and
 - Permanently revoke all licenses held by the employer for second violations of this section.
- Establishes an affirmative defense for employers that can prove they relied on the federal government's e-verify service to confirm an employee's immigration status.
- Establishes an affirmative defense of entrapment for employers accused of violating this section.
- Establishes a misdemeanor offense for those that file false and frivolous complaints under this section.

11 Intentionally Employing Unauthorized Aliens.

- Prohibits an employer from intentionally employing an unauthorized alien.
- Establishes protocols for citizens to file a complaint alleging a violation of this section and for the state to investigate the complaints.
- Requires county attorneys to file suit against employers that are believed to be in violation of this section.
- Requires courts to take the following steps if a violation of this section is established:
 - Order the employer to terminate all unauthorized aliens;
 - Place the employer on probation for 5-years for the location the violation occurred during which time the employer must file quarterly reports with the county attorney listing each new employee hired by the employer at the location of the violation;
 - Require the employer to file a sworn affidavit stating that the employer has terminated all unauthorized aliens and will not violate this section again – failure to file the report will result in suspension of state licenses;
 - Suspend all state licenses held by the employer for a minimum of ten days; and
 - Revoke all licenses held by the employer for second violations of this section.
- Establishes an affirmative defense for employers that can prove they relied on the

federal government's e-verify service to confirm an employee's immigration status.

- Establishes an affirmative defense of entrapment for employers accused of violating this section.
- Establishes a misdemeanor offense for those who file false and frivolous complaints under this section.

12 **Verification of Employment Eligibility.**

- Requires all employers to verify the employment eligibility of employees hired after December 31, 2010, through the e-verify system. Employers must retain a record of the verification for each employee for three years.
- Requires employers to register and participate in the e-verify program in order to receive an economic development incentive from a local unit of government.
- Requires the Attorney General to secure a list of state employers that are registered in the e-verify system every three months and post the list on the Attorney General's website.

13 **Illegal Immigration Training; Enforcement Team.**

Subd. 1. Immigration enforcement training. Directs the Commissioner of Public Safety to work with federal authorities to develop a course to train state law enforcement officers to enforce federal immigration laws.

Subd. 2. Minnesota illegal immigration enforcement team. Establishes the Minnesota Illegal Immigration Enforcement Team under the direction of the Commissioner of Public Safety. The team consists of ten members and is tasked to develop and implement an illegal immigration enforcement strategy for state and local law enforcement agencies. The team shall also assist local units of government in investigating and apprehending illegal immigrants. Directs the team to focus its resources on identifying and apprehending illegal immigrants who are involved in felony-level criminal activity.

14 **Illegal Immigration Enforcement Team Fund.** Establishes a special revenue fund to support the Minnesota Illegal Immigration Enforcement Team. The fund will be supported by fines imposed under this act and direct appropriations. In addition to MIIET, the funds shall be used for illegal immigration enforcement and county jail reimbursement costs relating to illegal immigrants.

15 **Immigration Legislation Challenges.**

- Directs the Attorney General to defend challenges to this act.
- Authorizes the Governor to appoint counsel other than the Attorney General in lawsuits related to this act.

16 **Severability, Implementation, and Construction.** Contains a severability clause; states that federal definitions of immigration terms apply; and states that the act shall be implemented in a manner that is consistent with federal immigration laws, civil rights and

individual privileges and immunities.

- 17** **Warrantless Arrests.** Authorizes a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has committed any public offense that makes the person removable from the U.S.