

HOUSE BILL No. 4305

February 22, 2011, Introduced by Reps. Agema, Hooker, Pettalia, Genetski, Franz, Huuki, Knollenberg, Johnson, Forlini, Glardon, Zorn, Potvin, Opsommer, Damrow, Rogers, Lori and Scott and referred to the Committee on Judiciary.

A bill to provide for the determination of the immigration status of persons present in this state under certain circumstances; to allow for the enforcement of immigration laws in this state and the detaining and transportation of persons unlawfully present in the United States; to allow for certain civil actions; and to provide for certain civil fines and criminal penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "support our law enforcement and safe neighborhoods act".

3 Sec. 2. The terms of this act regarding immigration shall be
4 construed to have the meanings given to them under federal
5 immigration law, and the provisions of this act shall be

1 implemented in a manner consistent with federal laws regulating
2 immigration while protecting the civil rights of all persons and
3 respecting the privileges and immunities of United States citizens.

4 Sec. 3. (1) Except where exempted by federal law, every state
5 agency and political subdivision of this state shall verify the
6 lawful presence in the United States of any natural person 18 years
7 of age or older who has applied for federal public benefits, state
8 public benefits, or local public benefits, as defined in section
9 411 of the personal responsibility and work opportunity
10 reconciliation act of 1996, 8 USC 1621, that are administered by
11 the state agency or political subdivision of this state.

12 (2) Verification of lawful presence under this section is not
13 required for any of the following:

14 (a) Assistance for health care items and services that are
15 necessary for the treatment of an emergency medical condition of
16 the alien involved and are not related to an organ transplant
17 procedure.

18 (b) Short-term, noncash, in-kind emergency disaster relief.

19 (c) Public health assistance for immunizations with respect to
20 diseases and for testing and treatment of symptoms of communicable
21 diseases, whether or not such symptoms are caused by a communicable
22 disease.

23 (d) Programs, services, or assistance such as soup kitchens,
24 crisis counseling and intervention, and short-term shelter
25 specified by the attorney general of the United States, in the sole
26 and unreviewable discretion of the attorney general of the United
27 States after consultation with appropriate federal agencies and

1 departments, which meet all of the following criteria:

2 (i) Deliver in-kind services at the community level, including
3 through public or private nonprofit agencies.

4 (ii) Do not condition the provision of assistance, the amount
5 of assistance provided, or the cost of assistance provided on the
6 income or resources of the individual recipient.

7 (iii) Are necessary for the protection of life or safety.

8 (3) Verification of lawful presence in the United States by
9 the state agency or political subdivision of this state required to
10 make that verification shall require that the applicant execute an
11 affidavit under penalty of perjury that the applicant is 1 of the
12 following:

13 (a) A United States citizen.

14 (b) A qualified alien under the immigration and nationality
15 act, 8 USC 1101 to 1537, and is lawfully present in the United
16 States.

17 (4) For any applicant who has executed the affidavit described
18 in subsection (3)(b), eligibility for benefits shall be made
19 through the systematic alien verification of entitlement program
20 operated by the United States department of homeland security or a
21 successor program designated by the United States department of
22 homeland security. Until the eligibility verification is made, the
23 affidavit may be presumed to be proof of lawful presence for the
24 purposes of this section.

25 (5) Any person who knowingly and willfully makes a false,
26 fictitious, or fraudulent statement of representation in an
27 affidavit executed under subsection (3) is guilty of a misdemeanor

1 punishable by imprisonment for not more than 91 days or a fine of
2 not more than \$500.00, or both. If the affidavit constitutes a
3 false claim of United States citizenship in violation of 18 USC
4 911, a complaint shall be filed by the agency requiring the
5 affidavit with the United States attorney for the federal judicial
6 district in which the agency is located.

7 (6) Agencies or political subdivisions of this state may adopt
8 variations to the requirements of the provisions of this section
9 that demonstrably improve the efficiency or reduce delay in the
10 verification process or to provide for adjudication of unique
11 individual circumstances where the verification procedures in this
12 section would impose unusual hardship on a legal resident of this
13 state.

14 (7) An agency or political subdivision of this state shall not
15 provide any federal benefit, state benefit, or local benefit, as
16 defined in section 411 of the personal responsibility and work
17 opportunity reconciliation act of 1996, 8 USC 1621, in violation of
18 this section.

19 Sec. 4. (1) An official or agency of this state or a political
20 subdivision of this state shall not adopt a policy that limits or
21 restricts enforcement of federal immigration laws to less than the
22 full extent permitted by federal law.

23 (2) When a law enforcement officer has lawfully stopped,
24 detained, or arrested, for a violation of a law of this state or
25 any political subdivision of this state, a person who is or should
26 reasonably be suspected of being unlawfully present in the United
27 States, a complete, full, and appropriate attempt shall be made to

1 verify the person's immigration status with the federal government.
2 The person's immigration status shall be verified through a query
3 to the appropriate entity of the federal government under 8 USC
4 1373(c). For the purposes of this subsection, a person is presumed
5 not to be an alien who is unlawfully present in the United States
6 if the person provides to the law enforcement officer or agency any
7 of the following:

8 (a) A valid Michigan operator's or chauffeur's license.

9 (b) A valid Michigan state personal identification card.

10 (c) Any other valid United States, state, or local government
11 issued identification document if the issuing agency requires proof
12 of legal presence in the United States before issuance.

13 (3) If an alien who is unlawfully present in the United States
14 is convicted of a violation of state law or local ordinance upon
15 discharge from imprisonment or assessment of any fine that is
16 imposed, the alien shall be transferred immediately to the custody
17 of the United States immigration and customs enforcement or the
18 United States customs and border protection.

19 (4) A law enforcement agency may securely transport an alien
20 who is unlawfully present in the United States and who is in the
21 agency's custody to a federal facility in this state or any other
22 point of transfer into federal custody that is outside the
23 jurisdiction of the law enforcement agency. If the point of
24 transfer is located outside of this state, the arrested person
25 first shall be served with a copy of a detainer request issued by a
26 federal immigration officer or a record of judicial authorization
27 for the transfer.

1 (5) A law enforcement officer, with or without a warrant, may
2 arrest a person if the officer has probable cause to believe that
3 the person has committed a public offense that makes the person
4 removable from the United States.

5 (6) Except as provided in federal law, officials or agencies
6 of this state or any political subdivision of this state shall not
7 be prohibited or in any way restricted from sending, receiving, or
8 maintaining information relating to the immigration status of any
9 individual or exchanging that information with any other federal,
10 state, or local governmental entity for the following official
11 purposes:

12 (a) The investigation, adjudication, or prosecution of a
13 criminal or civil offense.

14 (b) Determining eligibility for any public benefit, service,
15 or license provided by the federal government, any state
16 government, or any political subdivision of a state government.

17 (c) Verifying a claim of residence or domicile if
18 determination of residence or domicile is required under the laws
19 of this state or a judicial order issued pursuant to a civil or
20 criminal proceeding in this state.

21 (d) Confirming the identity of any person who is detained.

22 (e) If the person is an alien, determining whether the person
23 is in compliance with the federal registration laws.

24 (7) A person may bring an action in circuit court to challenge
25 any official or agency of this state or any political subdivision
26 of this state that adopts or implements a policy limiting or
27 restricting enforcement of federal immigration laws to less than

1 the full extent permitted by federal law. If there is a judicial
2 finding that an official or agency of this state or any political
3 subdivision of this state has violated this section, the court may
4 order any of the following:

5 (a) That the person who brought the action recover court costs
6 and attorney fees.

7 (b) That the official or agency of this state or any political
8 subdivision of this state pay a civil fine of not less than
9 \$1,000.00 and not more than \$5,000.00 for each day beyond the
10 seventh day that the policy remains in effect after service of
11 notice on the agency of the filing of an action under this
12 subsection.

13 (8) A law enforcement officer shall be indemnified by the law
14 enforcement officer's agency against reasonable costs and expenses,
15 including attorney fees, incurred in connection with an action or
16 proceeding under this section to which the officer may become a
17 party by reason of being or having been a member of the law
18 enforcement agency, except in relation to matters in which the
19 officer is adjudged to have acted in bad faith.

20 (9) This section shall be implemented in a manner consistent
21 with federal laws regulating immigration, protecting the civil
22 rights of all persons and respecting the privileges and immunities
23 of United States citizens.

24 Sec. 5. (1) Except as provided in subsection (5), and in
25 addition to any violation of federal law, a person who willfully
26 fails to apply for alien registration or to carry an alien
27 registration document in violation of 8 USC 1304(e) or 1306(a) is

1 guilty of a misdemeanor punishable by imprisonment for not more
2 than 91 days or a fine of not more than \$500.00, or both. In
3 addition to any other penalty prescribed by law, the court shall
4 order the offender to pay jail costs and an additional civil fine
5 of \$500.00 for a first violation and \$1,000.00 for a second or
6 subsequent offense.

7 (2) In enforcing this section, the final determination of an
8 alien's immigration status shall be made by 1 of the following:

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

11 (b) A law enforcement officer or agency communicating with the
12 United States immigration and customs enforcement or the United
13 States customs and border protection.

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

17 (4) Any record that relates to the immigration status of a
18 person is admissible in any court without further foundation or
19 testimony from a custodian of records if the record is certified as
20 authentic by the government agency that is responsible for
21 maintaining the record.

22 (5) A violation of this section is a misdemeanor punishable by
23 imprisonment for not more than 6 months or a fine of not more than
24 \$1,000.00, or both, if the person violates this section while in
25 possession of a illegal controlled substance, a deadly weapon, or
26 property used for the purpose of committing an act of terrorism, as
27 that term is defined in section 543b of the Michigan penal code,

1 1931 PA 328, MCL 750.543b.