

SB63 ENROLLED



1 SB63
2 3CXJVVZ-2
3 By Senators Bell, Smitherman, Elliott, Kelley, Kitchens, Orr,
4 Albritton, Allen
5 RFD: County and Municipal Government
6 First Read: 04-Feb-25



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Enrolled, An Act,

Relating to immigration; to amend Section 31-13-3, Code of Alabama 1975; to further provide definitions; to amend Section 36-18-32, Code of Alabama 1975; to further provide for the collection and disbursement of certain fees; and to add Section 31-13-36 to the Code of Alabama 1975; to require law enforcement agencies to collect fingerprints and DNA from any illegal alien in the agency's custody and submit the fingerprints and DNA for testing or cataloging.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 31-13-3 and 36-18-32, Code of Alabama 1975, are amended to read as follows:

"§31-13-3

For the purposes of this chapter, the following words ~~shall~~ have the following meanings:

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

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

a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships,



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limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

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

(4) EMPLOYEE. Any person directed, allowed, or permitted to perform labor or service of any kind by an employer. The employees of an independent contractor working for a business entity shall not be regarded as the employees of the business entity, for the purposes of this chapter. This term does not include any inmate in the legal custody of the state, a county, or a municipality.

(5) EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or



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57 custody of any employment, place of employment, or of any
58 employee, including any person or entity employing any person
59 for hire within the State of Alabama, including a public
60 employer. This term shall not include the occupant of a
61 household contracting with another person to perform casual
62 domestic labor within the household.

63 (6) EMPLOYMENT. The act of employing or state of being
64 employed, engaged, or hired to perform work or service of any
65 kind or character within the State of Alabama, including any
66 job, task, work, labor, personal services, or any other
67 activity for which compensation is provided, expected, or due,
68 including, but not limited to, all activities conducted by a
69 business entity or employer. This term shall not include
70 casual domestic labor performed in a household on behalf of
71 the occupant of the household or the relationship between a
72 contractor and the employees of a subcontractor performing
73 work for the contractor.

74 (7) E-VERIFY. The electronic verification of federal
75 employment authorization program of the Illegal Immigration
76 Reform and Immigrant Responsibility Act of 1996, P.L. 104-208,
77 Division C, Section 403(a); 8 U.S.C. §_1324(a), and operated
78 by the United States Department of Homeland Security, or its
79 successor program.

80 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
81 electronic verification of work authorization programs
82 operated by the United States Department of Homeland Security
83 or an equivalent federal work authorization program operated
84 by the United States Department of Homeland Security to verify



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information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. § 1324(a).

(9) ILLEGAL ALIEN. An alien who is not lawfully present in the United States under any federal law, regulation, order, or directive.

~~(9)~~ (10) KNOWS or KNOWINGLY. A person acts knowingly or with knowledge with respect to either of the following:

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

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

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

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

b. A valid, unexpired Alabama nondriver identification



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113 card.

114 c. A valid tribal enrollment card or other form of
115 tribal identification bearing a photograph or other biometric
116 identifier.

117 d. Any valid United States federal or state government
118 issued identification document bearing a photograph or other
119 biometric identifier, including a valid Uniformed Services
120 Privileges and Identification Card if issued by an entity that
121 requires proof of lawful presence in the United States before
122 issuance.

123 e. A foreign passport with an unexpired United States
124 Visa and a corresponding stamp or notation by the United
125 States Department of Homeland Security indicating the bearer's
126 admission to the United States.

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

132 ~~(11)~~ (12) POLICY OR PRACTICE. A guiding principle or
133 rule that may be written or adopted through repeated actions
134 or customs.

135 ~~(12)~~ (13) PROTECTIVE SERVICES PROVIDER. A child
136 protective services worker; adult protective services worker;
137 protective services provider; or provider of services to
138 victims of domestic violence, stalking, sexual assault, or
139 human trafficking that receives federal grants under the
140 Victim of Crimes Act, the Violence Against Women Act, or the



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Family Violence Prevention and Services Act.

~~(13)~~ (14) PUBLIC EMPLOYER. Every department, agency, or instrumentality of the state or a political subdivision of the state including counties and municipalities.

~~(14)~~ (15) STATE-FUNDED ENTITY. Any governmental entity of the state or a political subdivision thereof or any other entity that receives any monies from the state or a political subdivision thereof; provided, however, an entity that merely provides a service or a product to any governmental entity of the state or a political subdivision thereof, and receives compensation for the same, shall not be considered a state-funded entity.

~~(15)~~ (16) SUBCONTRACTOR. A person, business entity, or employer who is awarded a portion of an existing contract by a contractor, regardless of its tier.

~~(16)~~ (17) UNAUTHORIZED ALIEN. An alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3)."

"§36-18-32

(a) There is ~~hereby~~ established a special fund in the State Treasury to be known as the Alabama DNA Database Fund.

(b) The fund shall be placed under the management or administration of the Director of the Alabama Department of Forensic Sciences for the exclusive purposes of implementing ~~the provisions of this article.~~

(c) The fund shall consist of all ~~moneys~~ monies received by the director pursuant to ~~the provisions of this~~ section.



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(d) The director shall have control of those funds ~~as shall not be inconsistent with the provisions of~~ subject to this article and ~~with the~~ laws of the State of Alabama.

(e) Monies deposited in the Alabama DNA Database Fund may be expended by the Director of the Alabama Department of Forensic Sciences in accordance with the provisions of this article. The investment of monies in the fund by the State Treasurer shall remain in the Alabama DNA Database Fund. At the end of each fiscal year any unexpended or unencumbered monies shall remain in the fund. However, no funds shall be withdrawn or expended except as budgeted and allotted according to law and only in the amounts authorized by the Legislature in the general appropriation bill or other appropriation bills.

(f) Neither the director nor any member of the director's staff nor any employee of the Alabama Department of Forensic Sciences shall have any financial interest in any such investments or receive any reward, thing of value, or commission in respect thereto.

(g) ~~It shall be the duty of the~~ The director to shall keep detailed permanent records of all expenditures and disbursements from ~~such the fund or account.~~

(h) In all municipal, district, and circuit court civil cases, and upon initiation of attachment, garnishment, or execution proceedings, a fee in the amount of two dollars (\$2) shall be assessed and collected. In all municipal, district, and circuit court criminal cases, in bond forfeiture proceedings, and upon the issuance of any alias or capias



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warrant of arrest, a fee in the amount of ~~twelve dollars (\$12)~~
fifteen dollars (\$15) shall be assessed and collected. The fee
shall be collected by the court clerk and remitted as follows:

(1) Alabama DNA Database Fund.

a. For fiscal years 2009 and 2010, seven dollars (\$7).

b. For fiscal year 2011, eight dollars (\$8).

c. For fiscal ~~year~~ years 2012 ~~and thereafter~~ through
2025, eleven dollars (\$11).

d. For fiscal year 2026 and thereafter, fourteen
dollars (\$14).

(2) Citizenship Trust pursuant to Section 16-44A-30,
for the purposes described in Section 36-18-32.1.

a. For fiscal years 2009 and 2010, five dollars (\$5).

b. For fiscal year 2011, four dollars (\$4).

c. For fiscal year 2012 and thereafter, one dollar
(\$1).

Provided, however, that there shall be no additional
fees imposed for violations relating to parking tickets or
small claims cases.

(i) The amount of the fees shall be remitted by the
person or authority collecting the same to the director on the
10th day of each month next succeeding that in which the fee
is paid. It shall be the duty of the clerk or other authority
collecting those court fees to keep accurate records of the
amounts due the director for the benefit of the fund
established under this section."

Section 2. Section 31-13-36 is added to the Code of
Alabama 1975, to read as follows:



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§31-13-36

(a) Whenever a law enforcement agency in this state has an illegal alien in its custody, the agency may not release the illegal alien until the agency has collected a full set of fingerprints and a known DNA reference sample from the individual, if a sample has not previously been collected.

(b) Following the collection of fingerprints or DNA pursuant to this section, a law enforcement agency shall submit the fingerprints to the Alabama State Law Enforcement Agency for cataloging and shall submit the known DNA reference sample to the Alabama Department of Forensic Sciences for analysis and entry into the appropriate database.

Section 3. This act shall become effective on June 1, 2025.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 13-Feb-25

I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 06-May-25

By: Senator Bell