

SB63 INTRODUCED



1 SB63
2 3CXJVVZ-1
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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SYNOPSIS:

This bill would 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.

This bill would also further provide for certain court costs.

A BILL
TO BE ENTITLED
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



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

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

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

40 a. Self-employed individuals, business entities filing
41 articles of incorporation, partnerships, limited partnerships,
42 limited liability companies, foreign corporations, foreign
43 limited partnerships, foreign limited liability companies
44 authorized to transact business in this state, business
45 trusts, and any business entity that registers with the
46 Secretary of State.

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

53 (3) CONTRACTOR. A person, employer, or business entity
54 that enters into an agreement to perform any service or work
55 or to provide a certain product in exchange for valuable
56 consideration. This definition shall include, but not be



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57 limited to, a general contractor, subcontractor, independent
58 contractor, contract employee, project manager, or a
59 recruiting or staffing entity.

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

67 (5) EMPLOYER. Any person, firm, corporation,
68 partnership, joint stock association, agent, manager,
69 representative, foreman, or other person having control or
70 custody of any employment, place of employment, or of any
71 employee, including any person or entity employing any person
72 for hire within the State of Alabama, including a public
73 employer. This term shall not include the occupant of a
74 household contracting with another person to perform casual
75 domestic labor within the household.

76 (6) EMPLOYMENT. The act of employing or state of being
77 employed, engaged, or hired to perform work or service of any
78 kind or character within the State of Alabama, including any
79 job, task, work, labor, personal services, or any other
80 activity for which compensation is provided, expected, or due,
81 including, but not limited to, all activities conducted by a
82 business entity or employer. This term shall not include
83 casual domestic labor performed in a household on behalf of
84 the occupant of the household or the relationship between a



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85 contractor and the employees of a subcontractor performing
86 work for the contractor.

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

93 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
94 electronic verification of work authorization programs
95 operated by the United States Department of Homeland Security
96 or an equivalent federal work authorization program operated
97 by the United States Department of Homeland Security to verify
98 information of newly hired employees, under the Immigration
99 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the
100 Illegal Immigration Reform and Immigrant Responsibility Act of
101 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §
102 1324(a).

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

106 ~~(9)~~ (10) KNOWS or KNOWINGLY. A person acts knowingly or
107 with knowledge with respect to either of the following:

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

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



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113 that result.

114 ~~(10)~~ (11) LAWFUL PRESENCE or LAWFULLY PRESENT. A person
115 shall be regarded as an alien unlawfully present in the United
116 States only if the person's unlawful immigration status has
117 been verified by the federal government pursuant to 8 U.S.C. §
118 1373(c). No officer of this state or any political subdivision
119 of this state shall attempt to independently make a final
120 determination of an alien's immigration status. An alien
121 possessing self-identification in any of the following forms
122 is entitled to the presumption that he or she is an alien
123 lawfully present in the United States:

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

125 b. A valid, unexpired Alabama nondriver identification
126 card.

127 c. A valid tribal enrollment card or other form of
128 tribal identification bearing a photograph or other biometric
129 identifier.

130 d. Any valid United States federal or state government
131 issued identification document bearing a photograph or other
132 biometric identifier, including a valid Uniformed Services
133 Privileges and Identification Card if issued by an entity that
134 requires proof of lawful presence in the United States before
135 issuance.

136 e. A foreign passport with an unexpired United States
137 Visa and a corresponding stamp or notation by the United
138 States Department of Homeland Security indicating the bearer's
139 admission to the United States.

140 f. A foreign passport issued by a visa waiver country



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141 with the corresponding entry stamp and unexpired duration of
142 stay annotation or an I-94W form by the United States
143 Department of Homeland Security indicating the bearer's
144 admission to the United States.

145 ~~(11)~~ (12) POLICY OR PRACTICE. A guiding principle or
146 rule that may be written or adopted through repeated actions
147 or customs.

148 ~~(12)~~ (13) PROTECTIVE SERVICES PROVIDER. A child
149 protective services worker; adult protective services worker;
150 protective services provider; or provider of services to
151 victims of domestic violence, stalking, sexual assault, or
152 human trafficking that receives federal grants under the
153 Victim of Crimes Act, the Violence Against Women Act, or the
154 Family Violence Prevention and Services Act.

155 ~~(13)~~ (14) PUBLIC EMPLOYER. Every department, agency, or
156 instrumentality of the state or a political subdivision of the
157 state including counties and municipalities.

158 ~~(14)~~ (15) STATE-FUNDED ENTITY. Any governmental entity
159 of the state or a political subdivision thereof or any other
160 entity that receives any monies from the state or a political
161 subdivision thereof; provided, however, an entity that merely
162 provides a service or a product to any governmental entity of
163 the state or a political subdivision thereof, and receives
164 compensation for the same, shall not be considered a
165 state-funded entity.

166 ~~(15)~~ (16) SUBCONTRACTOR. A person, business entity, or
167 employer who is awarded a portion of an existing contract by a
168 contractor, regardless of its tier.



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169 ~~(16)~~ (17) UNAUTHORIZED ALIEN. An alien who is not
170 authorized to work in the United States as defined in 8 U.S.C.
171 § 1324a(h) (3)."

172 "§36-18-32

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

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

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

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

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

196 (f) Neither the director nor any member of the



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197 director's staff nor any employee of the Alabama Department of
198 Forensic Sciences shall have any financial interest in any
199 such investments or receive any reward, thing of value, or
200 commission in respect thereto.

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

204 (h) In all municipal, district, and circuit court civil
205 cases, and upon initiation of attachment, garnishment, or
206 execution proceedings, a fee in the amount of two dollars (\$2)
207 shall be assessed and collected. In all municipal, district,
208 and circuit court criminal cases, in bond forfeiture
209 proceedings, and upon the issuance of any alias or capias
210 warrant of arrest, a fee in the amount of ~~twelve dollars (\$12)~~
211 fifteen dollars (\$15) shall be assessed and collected. The fee
212 shall be collected by the court clerk and remitted as follows:

213 (1) Alabama DNA Database Fund.

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

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

216 c. For fiscal ~~year~~ years 2012 ~~and thereafter~~ through
217 2025, eleven dollars (\$11).

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

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

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

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

224 c. For fiscal year 2012 and thereafter, one dollar



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225 (\$1).

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

229 (i) The amount of the fees shall be remitted by the
230 person or authority collecting the same to the director on the
231 10th day of each month next succeeding that in which the fee
232 is paid. It shall be the duty of the clerk or other authority
233 collecting those court fees to keep accurate records of the
234 amounts due the director for the benefit of the fund
235 established under this section."

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

238 §31-13-36

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

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

250 Section 3. This act shall become effective on June 1,
251 2025.