

Senate Bill 160

By: Senators Ginn of the 47th, Miller of the 49th, Jones of the 25th, Cowser of the 46th,
Mullis of the 53rd and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated,
2 relating to security and immigration compliance, so as to modify provisions relating to
3 penalties for the failure of a public employer to utilize the federal work authorization
4 program and modify provisions relating to requiring private employers to utilize the federal
5 work authorization program; to provide legislative intent relative thereto; to amend Code
6 Section 36-60-6 of the Official Code of Georgia Annotated, relating to utilization of the
7 federal work authorization program, so as to modify provisions relating to private businesses
8 participating in the employment eligibility verification system prior to the issuance of a
9 business license or other document and provisions related to evidence of state licensure,
10 annual reporting, and violations; to amend Code Section 36-80-23 of the Official Code of
11 Georgia Annotated, relating to prohibition on immigration sanctuary policies by local
12 governmental entities, so as to correct a cross-reference; to amend Chapter 36 of Title 50 of
13 the Official Code of Georgia Annotated, relating to verification of lawful presence within the
14 United States, so as to modify provisions relating to the "Secure and Verifiable Identity
15 Document Act" and the provision of public benefits to illegal aliens and to add new
16 provisions relating to requiring agencies to submit annual immigration compliance reports;
17 to provide for exceptions; to provide for related matters; to provide an effective date; to
18 repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to
22 security and immigration compliance, is amended by revising Code Section 13-10-90,
23 relating to definitions pertaining to security and immigration compliance, as follows:

24 "13-10-90.

25 As used in this article, the term:

26 (1) 'Commissioner' means the Commissioner of Labor.

27 (2) 'Contractor' means a person or entity that enters into a contract for the physical
28 performance of services ~~with a public employer.~~

29 (3) 'Federal work authorization program' means any of the electronic verification of work
30 authorization programs operated by the United States Department of Homeland Security
31 or any equivalent federal work authorization program operated by the United States
32 Department of Homeland Security to verify employment eligibility information of newly
33 hired employees, commonly known as E-Verify, or any subsequent replacement program.

34 (4) 'Physical performance of services' means ~~the building, altering, repairing, improving,~~
35 ~~or demolishing of any public structure or building or other public improvements of any~~
36 ~~kind to public real property within this state, including the construction, reconstruction,~~
37 ~~or maintenance of all or part of a public road; or any other performance of labor or~~
38 services for a public employer within this state under a contract or other using a bidding
39 process or by contract wherein the labor or services exceed \$2,499.99; provided,
40 however, that such term shall not include any contract between a public employer and an
41 individual who is licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia
42 and is in good standing when such contract is for services to be rendered by such
43 individual.

44 (5) 'Public employer' means every department, agency, or instrumentality of ~~the~~ this state
45 or a political subdivision of ~~the~~ this state ~~with more than one employee.~~

46 (6) 'Subcontractor' means a person or entity having privity of contract with a contractor,
47 subcontractor, or sub-subcontractor and includes a contract employee or staffing agency.

48 (7) 'Sub-subcontractor' means a person or entity having privity of contract with a
49 subcontractor or privity of contract with another person or entity contracting with a
50 subcontractor or sub-subcontractor."

51 **SECTION 2.**

52 It is the intent of the General Assembly that all public employers and contractors at every tier
53 and level use the federal work authorization program on all projects, jobs, and work resulting
54 from any bid or contract and that every public employer and contractor working for a public
55 employer take all possible steps to ensure that a legal and eligible workforce is utilized in
56 accordance with federal immigration and employment.

57 **SECTION 3.**

58 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to
59 security and immigration compliance, is amended by revising paragraph (1) of subsection
60 (b) and subparagraph (b)(7)(A) of Code Section 13-10-91, relating to verification of new
61 employee eligibility, applicability, and rules and regulations, as follows:

62 "(b)(1) A public employer shall not enter into a contract pursuant to this chapter for the
 63 physical performance of services unless the contractor registers and participates in the
 64 federal work authorization program. Before a bid for any such service is considered by
 65 a public employer, the bid shall include a signed, notarized affidavit from the contractor
 66 attesting to the following:

67 (A) The affiant has registered with, is authorized to use, and uses the federal work
 68 authorization program;

69 (B) The user identification number and date of authorization for the affiant;

70 (C) The affiant will continue to use the federal work authorization program throughout
 71 the contract period; and

72 (D) The affiant will contract for the physical performance of services in satisfaction of
 73 such contract only with subcontractors who present an affidavit to the contractor with
 74 the same information required by subparagraphs (A), (B), and (C) of this paragraph.

75 An affidavit required by this subsection shall be considered an open public record once
 76 a public employer has entered into a contract for physical performance of services;
 77 provided, however, that any information protected from public disclosure by federal law
 78 or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained
 79 by the public employer for five years from the date of receipt."

80 "~~(7)(A) Not later than December 31 of each year, a public employer shall submit a~~
 81 ~~compliance report to the state auditor certifying compliance with the provisions of this~~
 82 ~~subsection. Such compliance report shall contain the public employer's federal work~~
 83 ~~authorization program verification user number and date of authorization and the legal~~
 84 ~~name, address, and federal work authorization program user number of the contractor~~
 85 ~~and the date of the contract between the contractor and public employer. Public~~
 86 ~~employers subject to the requirements of this subsection shall provide an annual report~~
 87 ~~to the Department of Audits and Accounts pursuant to Code Section 50-36-4 as proof~~
 88 ~~of compliance with this subsection. Subject to available funding, the state auditor shall~~
 89 ~~conduct annual compliance audits on a minimum of at least one-half of the reporting~~
 90 ~~agencies and publish the results of such audits annually on the department's Department~~
 91 ~~of Audits and Accounts website on or before September 30."~~

92 **SECTION 4.**

93 Code Section 36-60-6 of the Official Code of Georgia Annotated, relating to utilization of
 94 the federal work authorization program, issuance of a business or similar license, evidence
 95 of state licensure, annual reporting, form affidavit, violations, and investigations, is amended
 96 by revising subsections (d), (e), and (f) as follows:

97 ~~“(d)(1) Before any county or municipal corporation issues or renews a business license,~~
 98 ~~occupational tax certificate, or other document required to operate a business to any~~
 99 ~~person, the person shall provide evidence that he or she is authorized to use the federal~~
 100 ~~work authorization program or evidence that the provisions of this Code section do not~~
 101 ~~apply. Evidence of such use shall be in the form of an affidavit as provided by the~~
 102 ~~Attorney General in subsection (f) of this Code section attesting that he or she utilizes the~~
 103 ~~federal work authorization program in accordance with federal regulations or that he or~~
 104 ~~she employs fewer than 11 employees or otherwise does not fall within the requirements~~
 105 ~~of this Code section. Whether an employer is exempt from using the federal work~~
 106 ~~authorization program as required by this Code section shall be determined by the~~
 107 ~~number of employees employed by such employer on January 1 of the year during which~~
 108 ~~the affidavit is submitted. The affidavit shall include the employer's federally assigned~~
 109 ~~employment eligibility verification system user number and the date of authority for use.~~
 110 ~~The requirements of this subsection shall be effective on January 1, 2012, as to employers~~
 111 ~~with 500 or more employees, on July 1, 2012, as to employers with 100 or more~~
 112 ~~employees but fewer than 500 employees, and on July 1, 2013, as to employers with more~~
 113 ~~than ten employees but fewer than 100 employees.~~

114 ~~“(2) Upon satisfying the requirements of paragraph (1) of this subsection, for all~~
 115 ~~subsequent renewals of a business license, occupation tax certificate, or other document,~~
 116 ~~the person shall submit to the county or municipality his or her federal work authorization~~
 117 ~~user number or assert that he or she is exempt from this requirement, provided that the~~
 118 ~~federal work authorization user number provided for the renewal is the same federal work~~
 119 ~~authorization user number as provided in the affidavit under paragraph (1) of this~~
 120 ~~subsection. If the federal work authorization user number is different than the federal~~
 121 ~~work authorization user number provided in the affidavit under paragraph (1) of this~~
 122 ~~subsection, then the person shall be subject to the requirements of subsection (g) of this~~
 123 ~~Code section.~~

124 ~~(e) Beginning December 31, 2012, and annually thereafter, any county or municipal~~
 125 ~~corporation issuing or renewing a business license, occupational tax certificate, or other~~
 126 ~~document required to operate a business shall provide to the Department of Audits and~~
 127 ~~Accounts a report demonstrating that such county or municipality is acting in compliance~~
 128 ~~with the provisions of this Code section. This annual report shall identify each license or~~
 129 ~~certificate issued by the agency in the preceding 12 months and include the name of the~~
 130 ~~person and business issued a license or other document and his or her federally assigned~~
 131 ~~employment eligibility verification system user number as provided in the affidavit~~
 132 ~~submitted at the time of application. Counties and municipal corporations subject to the~~
 133 ~~requirements of this Code section shall provide an annual report to the Department of~~

134 Audits and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this
 135 Code section. Subject to funding, the Department of Audits and Accounts shall annually
 136 conduct an audit of no fewer than 20 percent of such reporting agencies.

137 (f) In order to assist private businesses and counties and municipal corporations in
 138 complying with the provisions of this Code section, the Attorney General shall provide a
 139 standardized form affidavit which ~~may~~ shall be used as acceptable evidence demonstrating
 140 use of the federal employment eligibility verification system or that the provisions of
 141 subsection (b) of this Code section do not apply to the applicant. The form affidavit shall
 142 be posted by the Attorney General on the Department of Law's official website no later
 143 than January 1, 2012."

144 **SECTION 5.**

145 Code Section 36-80-23 of the Official Code of Georgia Annotated, relating to prohibition on
 146 immigration sanctuary policies by local governmental entities, is amended by revising
 147 subsection (c) as follows:

148 "(c) Any local governing body that acts in violation of this Code section shall be subject
 149 to the withholding of state funding or state administered federal funding other than funds
 150 to provide services specified in subsection ~~(c)~~ (d) of Code Section 50-36-1."

151 **SECTION 6.**

152 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of
 153 lawful presence within the United States, is amended by revising Code Section 50-36-1,
 154 relating to verification requirements, procedures, and conditions, exceptions, regulations, and
 155 criminal and other penalties for violations, as follows:

156 "50-36-1.

157 (a) As used in this Code section, the term:

158 (1) 'Agency head' means a director, commissioner, chairperson, mayor, councilmember,
 159 board member, sheriff, or other executive official, whether appointed or elected,
 160 responsible for establishing policy for a public employer.

161 (2) 'Agency or political subdivision' means any department, agency, authority,
 162 commission, or government entity of this state or any subdivision of this state.

163 (3) 'Applicant' means any natural person, 18 years of age or older, who has made
 164 application for access to public benefits on behalf of an individual, business, corporation,
 165 partnership, or other private entity.

166 (4)~~(A)~~ 'Public benefit' means a federal benefit as defined in 8 U.S.C. Section 1611, a
 167 state, or local benefit as defined in 8 U.S.C. Section 1621, a benefit identified as a public

168 ~~benefit by the Attorney General of Georgia, or a public benefit~~ which shall include the
 169 following:

- 170 ~~(i)~~(A) Adult education;
- 171 ~~(ii)~~(B) Authorization to conduct a commercial enterprise or business;
- 172 ~~(iii)~~(C) Business certificate, license, or registration;
- 173 ~~(iv)~~(D) Business loan;
- 174 ~~(v)~~(E) Cash allowance;
- 175 ~~(vi)~~(F) Disability assistance or insurance;
- 176 ~~(vii)~~(G) Down payment assistance;
- 177 ~~(viii)~~(H) Energy assistance;
- 178 ~~(ix)~~(I) Food stamps;
- 179 ~~(x)~~(J) Gaming license;
- 180 (K) Grants;
- 181 ~~(xi)~~(L) Health benefits;
- 182 ~~(xii)~~(M) Housing allowance, grant, guarantee, or loan;
- 183 ~~(xiii)~~(N) Loan guarantee;
- 184 ~~(xiv)~~(O) Medicaid;
- 185 ~~(xv)~~(P) Occupational license;
- 186 ~~(xvi)~~(Q) Professional license;
- 187 (R) Public and assisted housing;
- 188 ~~(xvii)~~(S) Registration of a regulated business;
- 189 ~~(xviii)~~(T) Rent assistance or subsidy;
- 190 (U) Retirement benefits;
- 191 ~~(xix)~~(V) State grant or loan;
- 192 ~~(xx)~~(W) State issued driver's license and identification card;
- 193 ~~(xxi)~~(X) Tax certificate required to conduct a commercial business;
- 194 ~~(xxii)~~(Y) Temporary assistance for needy families (TANF);
- 195 ~~(xxiii)~~(Z) Unemployment insurance; and
- 196 ~~(xxiv)~~(AA) Welfare to work.

197 ~~(B) Each year before August 1, the Attorney General shall prepare a detailed report~~
 198 ~~indicating any 'public benefit' that may be administered in this state as defined in 8~~
 199 ~~U.S.C. Sections 1611 and 1621 and whether such benefit is subject to SAVE~~
 200 ~~verification pursuant to this Code section. Such report shall provide the description of~~
 201 ~~the benefit and shall be updated annually and distributed to the members of the General~~
 202 ~~Assembly and be posted to the Attorney General's website.~~

203 (5) 'SAVE program' means the federal Systematic Alien Verification for Entitlements
 204 program operated by the United States Department of Homeland Security or a successor

205 program designated by the United States Department of Homeland Security for the same
206 purpose.

207 (b) Except as provided in subsection (d) of this Code section or where exempted by federal
208 law, every agency or political subdivision shall verify the lawful presence in the United
209 States under federal immigration law of any applicant for public benefits.

210 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,
211 or national origin.

212 (d) Verification of lawful presence in the United States under federal immigration law
213 under this Code section shall not be required:

214 (1) For any purpose for which lawful presence in the United States under federal
215 immigration law is not required by law, ordinance, or regulation;

216 (2) For assistance for health care items and services that are necessary for the treatment
217 of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the
218 alien involved and are not related to an organ transplant procedure;

219 (3) For short-term, noncash, in-kind emergency disaster relief;

220 (4) For public health assistance for immunizations with respect to immunizable diseases
221 and for testing and treatment of symptoms of communicable diseases whether or not such
222 symptoms are caused by a communicable disease;

223 (5) For programs, services, or assistance such as soup kitchens, crisis counseling and
224 intervention, and short-term shelter specified by the United States Attorney General, in
225 the United States Attorney General's sole and unreviewable discretion after consultation
226 with appropriate federal agencies and departments, which:

227 (A) Deliver in-kind services at the community level, including through public or
228 private nonprofit agencies;

229 (B) Do not condition the provision of assistance, the amount of assistance provided,
230 or the cost of assistance provided on the individual recipient's income or resources; and

231 (C) Are necessary for the protection of life or safety;

232 (6) For prenatal care; or

233 (7) For postsecondary education, whereby the Board of Regents of the University System
234 of Georgia or the State Board of the Technical College System of Georgia shall set forth,
235 or cause to be set forth, policies regarding postsecondary benefits that comply with all
236 federal law including but not limited to public benefits as described in 8 U.S.C. Section
237 1611, 1621, or 1623.

238 (e) All policies of agencies or political subdivisions regarding public benefits for
239 postsecondary education shall comply with federal law as provided in 8 U.S.C. Section
240 1623.

241 ~~(e)~~(f)(1) Except as provided in subsection (g) of this Code section, an An agency or
 242 political subdivision providing or administering a public benefit shall require every
 243 applicant for such benefit to:

244 (A) Provide at least one secure and verifiable document, as defined in Code Section
 245 50-36-2, or a copy or facsimile of such document. Any document required by this
 246 subparagraph may be submitted by or on behalf of the applicant at any time within nine
 247 months prior to the date of application so long as the document remains valid through
 248 the licensing or approval period or such other period for which the applicant is applying
 249 to receive a public benefit; and

250 (B) Execute a signed and sworn affidavit verifying the applicant's lawful presence in
 251 the United States ~~and stating~~ under federal immigration law; provided, however, that
 252 if the applicant is younger than 18 years of age at the time of the application, he or she
 253 shall execute the affidavit required by this subparagraph within 30 days after his or her
 254 eighteenth birthday. Such affidavit shall affirm that:

255 (i) The applicant is a United States citizen or legal permanent resident 18 years of age
 256 or older; or

257 (ii) The applicant is a qualified alien or nonimmigrant under the federal Immigration
 258 and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the
 259 United States and ~~providing~~ provide the applicant's alien number issued by the
 260 Department of Homeland Security or other federal immigration agency.

261 (2) The state auditor shall create affidavits for use under this subsection and shall keep
 262 a current version of such affidavits on the Department of Audits and Accounts' official
 263 website.

264 (3) Documents ~~and copies of documents~~ required by this ~~Code section~~ subsection may
 265 be submitted in person, by mail, or electronically, provided the submission complies with
 266 Chapter 12 of Title 10. Copies of documents submitted in person, by mail, or
 267 electronically shall satisfy the requirements of this Code section. For purposes of this
 268 paragraph, electronic submission shall include a submission via facsimile, Internet,
 269 electronic texting, or any other electronically assisted transmitted method approved by
 270 the agency or political subdivision.

271 (4) The requirements of this subsection shall not apply to any applicant applying for or
 272 renewing an application for a public benefit within the same agency or political
 273 subdivision if the applicant has previously complied with the requirements of this
 274 subsection by submission of a secure and verifiable document, as defined in Code Section
 275 50-36-2, and a signed and sworn affidavit affirming that such applicant is a United States
 276 citizen.

277 (g)(1) The Department of Driver Services shall require every applicant for a state issued
 278 driver's license or state identification card to submit, in person, an original secure and
 279 verifiable document, as defined in Code Section 50-36-2, and execute a signed and sworn
 280 affidavit verifying the applicant's lawful presence in the United States under federal
 281 immigration law.

282 (2) The requirements of this subsection shall not apply to any applicant renewing a state
 283 issued driver's license or state identification card when such applicant has previously
 284 complied with the requirements of this subsection by submission of a secure and
 285 verifiable document, as defined in Code Section 50-36-2, and a signed and sworn
 286 affidavit affirming that such applicant is a United States citizen.

287 ~~(f)(h)~~ For any applicant who has executed an affidavit that he or she is an alien lawfully
 288 present in the United States, eligibility for public benefits shall be made through the
 289 ~~Systematic Alien Verification of Entitlement (SAVE) program operated by the United~~
 290 ~~States Department of Homeland Security or a successor program designated by the United~~
 291 ~~States Department of Homeland Security~~ SAVE program. Until such eligibility
 292 verification is made, the affidavit may be presumed to be proof of lawful presence in the
 293 United States under federal immigration law for the purposes of this Code section.

294 ~~(g)(i)~~ Any person who knowingly and willfully makes a false, fictitious, or fraudulent
 295 statement of representation in an affidavit executed pursuant to this Code section shall be
 296 guilty of a violation of Code Section 16-10-20.

297 ~~(h)(j)~~ Verification of citizenship through means required by federal law shall satisfy the
 298 requirements of this Code section.

299 ~~(i)(k)~~ It shall be unlawful for any agency or political subdivision to provide or administer
 300 any public benefit in violation of this Code section. ~~On or before January 1 of each year,~~
 301 ~~each agency or political subdivision which administers any public benefit shall provide an~~
 302 ~~annual report to the Department of Community Affairs that identifies each public benefit,~~
 303 ~~as defined in subparagraph (a)(3)(A) of this Code section, administered by the agency or~~
 304 ~~political subdivision and a listing of each public benefit for which SAVE authorization for~~
 305 ~~verification has not been received.~~ Agencies and political subdivisions subject to the
 306 requirements of this subsection shall provide an annual report to the Department of Audits
 307 and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this
 308 subsection. Any agency or political subdivision failing to provide a report as required by
 309 this subsection shall not be entitled to any financial assistance, funds, or grants from the
 310 Department of Community Affairs.

311 ~~(j)(l)~~ Any and all errors and significant delays by the SAVE program shall be reported to
 312 the United States Department of Homeland Security.

313 ~~(k)~~(m) Notwithstanding subsection ~~(g)~~ (i) of this Code section, any applicant for public
 314 benefits shall not be guilty of any crime for executing an affidavit attesting to his or her
 315 lawful presence in the United States under federal immigration law that contains a false
 316 statement if ~~said~~ such affidavit is not required by this Code section.

317 ~~(h)~~(n) In the event a legal action is filed against any agency or political subdivision alleging
 318 improper denial of a public benefit arising out of an effort to comply with this Code
 319 section, the Attorney General shall be served with a copy of the proceeding and shall be
 320 entitled to be heard.

321 ~~(m)~~(o) Compliance with this Code section by an agency or political subdivision shall
 322 include taking all reasonable, necessary steps required by a federal agency to receive
 323 authorization to utilize the SAVE program or any successor program designated by the
 324 United States Department of Homeland Security or other federal agency, including
 325 providing copies of statutory authorization for the agency or political subdivision to
 326 provide public benefits and other affidavits, letters of memorandum of understanding, or
 327 other required documents or information needed to receive authority to utilize the SAVE
 328 program or any successor program for each public benefit provided by such agency or
 329 political subdivision. An agency or political subdivision that takes all reasonable,
 330 necessary steps and submits all requested documents and information as required in this
 331 subsection but either has not been given access to use such programs by such federal
 332 agencies or has not completed the process of obtaining access to use such programs shall
 333 not be liable for failing to use the SAVE program or any such successor program to verify
 334 eligibility for public benefits.

335 ~~(n)~~(p) In the case of noncompliance with the provisions of this Code section by an agency
 336 or political subdivision, the appropriations committee of each house of the General
 337 Assembly may consider such noncompliance in setting the budget and appropriations.

338 ~~(o)~~(q) No employer, agency, or political subdivision shall be subject to lawsuit or liability
 339 arising from any act to comply with the requirements of this chapter; provided, however,
 340 that the intentional and knowing failure of any agency head to abide by the provisions of
 341 this chapter shall:

342 (1) Be a violation of the code of ethics for government service established in Code
 343 Section 45-10-1 and subject such agency head to the penalties provided for in Code
 344 Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and

345 (2) Be a high and aggravated misdemeanor offense where such agency head acts to
 346 willfully violate the provisions of this Code section or acts so as to intentionally and
 347 deliberately interfere with the implementation of the requirements of this Code section.

348 The Attorney General shall have the authority to conduct a criminal and civil investigation
 349 of an alleged violation of this chapter by an agency or agency head and to bring a

350 prosecution or civil action against an agency or agency head for all cases of violations
 351 under this chapter. In the event that an order is entered against an employer, the state shall
 352 be awarded attorney's fees and expenses of litigation incurred in bringing such an action
 353 and investigating such violation."

354 SECTION 7.

355 Said chapter is further amended by revising Code Section 50-36-2, relating to secure and
 356 verifiable identification documents, as follows:

357 "50-36-2.

358 (a) This Code section shall be known and may be cited as the 'Secure and Verifiable
 359 Identity Document Act.'

360 (b) As used in this Code section, the term:

361 (1) 'Agency or political subdivision' means any department, agency, authority,
 362 commission, or government entity of this state or any subdivision of this state.

363 (2) 'Public official' means an elected or appointed official or an employee or an agent of
 364 an agency or political subdivision.

365 (3)(A) 'Secure and verifiable document' means a document issued by a state or federal
 366 jurisdiction or recognized by the United States government and that is verifiable by
 367 federal or state law enforcement, intelligence, or homeland security agencies and shall
 368 include:

369 (i) An original or certified birth certificate issued by a state, county, municipal
 370 authority, or territory of the United States bearing an official seal;

371 (ii) A certification of report of birth issued by the United States Department of State;

372 (iii) A certification of birth abroad issued by the United States Department of State;

373 or

374 (iv) A consular report of birth abroad issued by the United States Department of
 375 State.

376 (B) The term 'secure and verifiable document' shall not include any foreign passport
 377 unless the passport is submitted with a valid United States Homeland Security Form
 378 I-94, I-94A, or I-94W, or other federal document specifying an alien's lawful
 379 immigration status, or other proof of lawful presence in the United States under federal
 380 immigration law, or Secure and verifiable document shall not mean a Matricula
 381 Consular de Alta Seguridad, matricula consular card, consular matriculation card,
 382 consular identification card, or similar identification card issued by a foreign
 383 government regardless of the holder's immigration status. Only those documents
 384 approved and posted by the Attorney General pursuant to subsection (f) (g) of this Code
 385 section shall be considered secure and verifiable documents.

386 (c) Unless required by federal law, on or after January 1, 2012, no agency or political
 387 subdivision shall accept, rely upon, or utilize an identification document for any official
 388 purpose that requires the presentation of identification by such agency or political
 389 subdivision or by federal or state law unless it is a secure and verifiable document.

390 (d) Copies of secure and verifiable documents submitted in person, by mail, or
 391 electronically shall satisfy the requirements of this Code section. For purposes of this
 392 subsection, electronic submission shall include, but shall not be limited to, submission via
 393 facsimile, Internet, or any other electronically assisted transmitted method approved by the
 394 agency or political subdivision.

395 ~~(d)~~(e) Any person acting in willful violation of this Code section by knowingly accepting
 396 identification documents that are not secure and verifiable documents shall be guilty of a
 397 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to
 398 exceed 12 months, a fine not to exceed \$1,000.00, or both.

399 ~~(e)~~(f) This Code section shall not apply to:

- 400 (1) A person reporting a crime;
- 401 (2) An agency official accepting a crime report, conducting a criminal investigation, or
 402 assisting a foreign national to obtain a temporary protective order;
- 403 (3) A person providing services to infants, children, or victims of a crime;
- 404 (4) A person providing emergency medical service;
- 405 (5) A peace officer in the performance of the officer's official duties and within the scope
 406 of his or her employment;
- 407 (6) Instances when a federal law mandates acceptance of a document;
- 408 (7) A court, court official, or traffic violation bureau for the purpose of enforcing a
 409 citation, accusation, or indictment;
- 410 (8) Paragraph (2) of subsection (a) of Code Section 40-5-21 or paragraph (2) of
 411 subsection (a) of Code Section 40-5-21.1; ~~or~~
- 412 (9) An attorney or his or her employees for the purpose of representing a criminal
 413 defendant; or
- 414 (10) The provision of utility services related to basic human necessities, including water,
 415 sewer, electrical power, communications, and gas.

416 ~~(f)~~(g) Not later than August 1, 2011, the Attorney General shall provide and make public
 417 on the Department of Law's website a list of acceptable secure and verifiable documents.
 418 The list shall be reviewed and updated annually by the Attorney General."

419 **SECTION 8.**

420 Said chapter is further amended by adding a new Code section to read as follows:

421 "50-36-4.

422 (a) As used in this Code section, the term:

423 (1) 'Agency or political subdivision' means any department, agency, authority,
424 commission, or governmental entity of this state or any subdivision of this state.

425 (2) 'Annual reporting period' means from December 1 of the preceding year through
426 November 30 of the year in which the report is due.

427 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.

428 (4) 'Department' means the Department of Audits and Accounts.

429 (5) 'Physical performance of services' shall have the same meaning as set forth in Code
430 Section 13-10-90.

431 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.

432 (b) Each agency or political subdivision subject to any of the requirements provided in
433 Code Sections 13-10-91, 36-60-6, and 50-36-1 shall submit an annual immigration
434 compliance report to the department by December 31 that includes the information required
435 under subsection (d) of this Code section for the annual reporting period. If an agency or
436 political subdivision is exempt from any, but not all, of the provisions of subsection (d) of
437 this Code section, it shall still be required to submit the annual report but shall indicate in
438 the report which requirements from which it is exempt.

439 (c) The department shall create an immigration compliance reporting system and shall
440 provide technical support for the submission of such reports. The department shall further
441 provide annual notification of such reports with submission instructions to all agencies and
442 political subdivisions subject to such requirements. The department shall be authorized to
443 implement policy as is needed to carry out the requirements of this subsection.

444 (d) The immigration compliance report provided for in subsection (b) of this Code section
445 shall contain the following:

446 (1) The agency or political subdivision's federal work authorization program verification
447 user number and date of authorization;

448 (2) The legal name, address, and federal work authorization program user number of
449 every contractor that has entered into a contract for the physical performance of services
450 with a public employer as required under Code Section 13-10-91 during the annual
451 reporting period;

452 (3) The date of the contract for the physical performance of services between the
453 contractor and public employer as required under Code Section 13-10-91;

454 (4) A listing of each license or certificate issued by a county or municipal corporation
455 to private employers that are required to utilize the federal work authorization program
456 under the provisions of Code Section 36-60-6 during the annual reporting period,
457 including the name of the person and business issued a license and his or her federally

458 assigned employment eligibility verification system user number as provided in the
459 private employer affidavit submitted at the time of application; and
460 (5)(A) A listing of each public benefit administered by the agency or political
461 subdivision and a listing of each public benefit for which SAVE program authorization
462 for verification has not been received.
463 (B) As used in this paragraph, the terms 'public benefit' and 'SAVE program' shall have
464 the same meaning as set forth in Code Section 50-36-1.
465 (e) In the event that the immigration compliance report submitted by an agency or political
466 subdivision is found to be deficient by the department, so long as a new immigration
467 compliance report is submitted with the prior deficiencies corrected and fully complies
468 with this Code section, such agency or political subdivision shall be deemed to have
469 satisfied the requirements of this Code section.
470 (f) Any action taken by an agency or a political subdivision for the purpose of complying
471 with the requirements of this Code section shall not subject such agency or political
472 subdivision to any civil liability arising from such action.
473 (g) The department shall not find an agency or a political subdivision to be in violation of
474 this Code section as a result of any actions or omissions by a county constitutional officer."

475 **SECTION 9.**

476 This Act shall become effective on July 1, 2013.

477 **SECTION 10.**

478 All laws and parts of laws in conflict with this Act are repealed.