

By: Hall

S.B. No. 81

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain laws that regulate aspects of illegal
3 immigration in this state, including laws pertaining to the DNA
4 records of certain persons subject to an immigration detainer
5 request, the recognition of certain out-of-state driver's
6 licenses, inviting certain federal agencies to participate on the
7 homeland security council, the reporting of certain uncompensated
8 hospital care costs, and certain requirements for participation in
9 the E-verify program; increasing a criminal penalty.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 ARTICLE 1. DNA RECORDS OF CERTAIN PERSONS SUBJECT TO IMMIGRATION
12 DETAINER REQUEST

13 SECTION 1.01. Article 2.251(a), Code of Criminal Procedure,
14 is amended to read as follows:

15 (a) A law enforcement agency that has custody of a person
16 subject to an immigration detainer request issued by United States
17 Immigration and Customs Enforcement shall:

18 (1) comply with, honor, and fulfill any request made
19 in the detainer request provided by the federal government; ~~and~~

20 (2) inform the person that the person is being held
21 pursuant to an immigration detainer request issued by United States
22 Immigration and Customs Enforcement; and

23 (3) require the person to provide one or more
24 specimens for the purpose of creating a DNA record.

1 SECTION 1.02. Section 411.142(g), Government Code, is
2 amended to read as follows:

3 (g) The DNA database may contain DNA records for the
4 following:

5 (1) an individual described by this subchapter,
6 including Section 411.1471, 411.148, or 411.154;

7 (2) a biological specimen that is legally obtained in
8 the investigation of a crime, regardless of origin;

9 (3) results of testing ordered by a court under this
10 subchapter, Article 64.03, Code of Criminal Procedure, or other law
11 permitting or requiring the creation of a DNA record;

12 (4) an unidentified missing person, or unidentified
13 skeletal remains or body parts;

14 (5) a close biological relative of a person who has
15 been reported missing to a law enforcement agency;

16 (6) a person at risk of becoming lost, such as a child
17 or a person declared by a court to be mentally incapacitated, if the
18 record is required by court order or a parent, conservator, or
19 guardian of the person consents to the record; ~~or~~

20 (7) an unidentified person, if the record does not
21 contain personal identifying information; or

22 (8) a person who is:

23 (A) subject to an immigration detainer request
24 issued by United States Immigration and Customs Enforcement; and

25 (B) in the custody of a law enforcement agency in
26 accordance with Article 2.251, Code of Criminal Procedure.

1 ARTICLE 2. CERTAIN OUT-OF-STATE DRIVER'S LICENSES NOT RECOGNIZED

2 SECTION 2.01. Section 521.025, Transportation Code, is
3 amended by amending Subsection (c) and adding Subsection (c-1) to
4 read as follows:

5 (c) A person who violates this section commits an offense.
6 Subject to Subsection (c-1), an [An] offense under this subsection
7 is a misdemeanor punishable by a fine not to exceed \$200, except
8 that:

9 (1) for a second conviction within one year after the
10 date of the first conviction, the offense is a misdemeanor
11 punishable by a fine of not less than \$25 or more than \$200;

12 (2) for a third or subsequent conviction within one
13 year after the date of the second conviction the offense is a
14 misdemeanor punishable by:

15 (A) a fine of not less than \$25 or more than \$500;

16 (B) confinement in the county jail for not less
17 than 72 hours or more than six months; or

18 (C) both the fine and confinement; and

19 (3) if it is shown on the trial of the offense that at
20 the time of the offense the person was operating the motor vehicle
21 in violation of Section 601.191 and caused or was at fault in a
22 motor vehicle collision that resulted in serious bodily injury to
23 or the death of another person, an offense under this section is a
24 Class A misdemeanor.

25 (c-1) An offense under this section is a Class C misdemeanor
26 if it is shown on the trial of the offense that at the time of the
27 offense the person was operating the motor vehicle under the

1 authority of an unrecognized out-of-state driver's license
2 described by Section 521.0301(a).

3 SECTION 2.02. Section 521.029(a), Transportation Code, is
4 amended to read as follows:

5 (a) Except as provided by Section 521.0301, a [A] person who
6 enters this state as a new resident may operate a motor vehicle in
7 this state for no more than 90 days after the date on which the
8 person enters this state if the person:

9 (1) is 16 years of age or older; and

10 (2) has in the person's possession a driver's license
11 issued to the person by the person's state or country of previous
12 residence.

13 SECTION 2.03. Section 521.030, Transportation Code, is
14 amended to read as follows:

15 Sec. 521.030. RECIPROCAL LICENSE. (a) Except as provided
16 by Section 521.0301, a [A] nonresident who is 18 years of age or
17 older and who has in the person's possession a license issued to the
18 person by the person's state or country of residence that is similar
19 to a Class A or Class B driver's license issued under this chapter
20 is not required to hold a Class A or Class B driver's license issued
21 under this chapter if that state or country of residence recognizes
22 such a license issued by this state and exempts the holder from
23 securing a license issued by the state or foreign country.

24 (b) Except as provided by Section 521.0301, a [A]
25 nonresident who is 16 years of age or older and who has in the
26 person's possession a driver's license issued to the person by the
27 person's state or Canadian province of residence may operate a type

1 of motor vehicle that is permitted to be operated with a Class C or
2 Class M driver's license in this state if the license held by the
3 nonresident permits operation of that type of vehicle in the
4 person's state or province of residence.

5 SECTION 2.04. Subchapter B, Chapter 521, Transportation
6 Code, is amended by adding Section 521.0301 to read as follows:

7 Sec. 521.0301. CERTAIN OUT-OF-STATE DRIVER'S LICENSES NOT
8 RECOGNIZED. (a) Notwithstanding any other provision of law, a
9 person may not operate a motor vehicle in this state under the
10 authority of a driver's license issued by a state that does not
11 require a person to provide proof of United States citizenship or
12 legal residence as a condition of receiving the license.

13 (b) The department shall establish and maintain on the
14 department's Internet website a list of states that do not require a
15 person to provide proof of United States citizenship or legal
16 residence as a condition of receiving a driver's license.

17 ARTICLE 3. INVITATION TO CERTAIN FEDERAL AGENCIES TO PARTICIPATE
18 ON THE HOMELAND SECURITY COUNCIL

19 SECTION 3.01. Subchapter B, Chapter 421, Government Code,
20 is amended by adding Section 421.0211 to read as follows:

21 Sec. 421.0211. FEDERAL ADVISORS. The governor shall extend
22 an invitation to each of the following federal agencies to appoint a
23 member of the agency to the council:

24 (1) the United States Department of Homeland Security;

25 (2) United States Immigration and Customs
26 Enforcement; and

27 (3) United States Customs and Border Protection.

ARTICLE 4. REPORTING REQUIREMENTS RELATING TO CERTAIN
UNCOMPENSATED HOSPITAL CARE COSTS

SECTION 4.01. Subchapter 0, Chapter 531, Government Code,
is amended by adding Section 531.552 to read as follows:

Sec. 531.552. ANNUAL REPORT ON UNCOMPENSATED HOSPITAL CARE
PROVIDED TO PERSONS NOT LAWFULLY PRESENT. (a) In this section:

(1) "Person not lawfully present" means a person who,
at the time health care services are provided, is not:

(A) a citizen or national of the United States;
or

(B) an alien who is lawfully admitted for
permanent residence in the United States under the federal
Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) or
authorized to be employed by that Act or the United States attorney
general.

(2) "Uncompensated hospital care" has the meaning
adopted under Section 531.551.

(b) Not later than November 1 of each year, the commission
shall prepare and submit to the governor and the legislature a
written report for the preceding state fiscal year on:

(1) the cost of uncompensated hospital care incurred
by hospitals in this state to provide health care services to
patients who were persons not lawfully present; and

(2) the impact that incurring the costs described by
Subdivision (1) had on those hospitals.

(c) For purposes of preparing the report required by
Subsection (b), the executive commissioner by rule shall require

1 each hospital in this state that provides uncompensated hospital
2 care to:

3 (1) include on the hospital's patient intake form:

4 (A) a question regarding the patient's
5 citizenship or immigration status; and

6 (B) a statement that the patient's response to
7 that question will not:

8 (i) affect any health care service provided
9 to the patient; or

10 (ii) result in a report of the patient's
11 citizenship or immigration status to a law enforcement agency; and

12 (2) quarterly submit to the commission in the manner
13 and format prescribed by the commission a written report on:

14 (A) the number of patients who received health
15 care services from the hospital during the preceding quarter who
16 were persons not lawfully present;

17 (B) the total cost of uncompensated hospital care
18 incurred by the hospital as a result of providing health care
19 services to the patients who were persons not lawfully present; and

20 (C) the impact on the hospital of providing
21 uncompensated hospital care to patients who were persons not
22 lawfully present.

23 (d) A patient's response to the question described by
24 Subsection (c)(1)(A) may not:

25 (1) affect the health care services provided to the
26 patient; or

27 (2) result in a report of the patient's citizenship or

1 immigration status to a law enforcement agency.

2 (e) The commission shall ensure the reports required under
3 this section do not include any personal identifying information.

4 ARTICLE 5. CERTAIN REQUIREMENTS FOR PARTICIPATION IN THE FEDERAL
5 ELECTRONIC VERIFICATION OF EMPLOYMENT AUTHORIZATION PROGRAM, OR
6 E-VERIFY

7 SECTION 5.01. The heading to Chapter 2264, Government Code,
8 is amended to read as follows:

9 CHAPTER 2264. CERTAIN RESTRICTIONS ON [USE OF CERTAIN] PUBLIC
10 SUBSIDIES AND STATE CONTRACTS

11 SECTION 5.02. Section 2264.101, Government Code, is
12 transferred to Subchapter B, Chapter 2264, Government Code,
13 redesignated as Section 2264.054, Government Code, and amended to
14 read as follows:

15 Sec. 2264.054 [~~2264.101~~]. RECOVERY. (a) A public agency,
16 local taxing jurisdiction, or economic development corporation, or
17 the attorney general on behalf of the state or a state agency, may
18 bring a civil action to recover any amounts owed to the public
19 agency, state or local taxing jurisdiction, or economic development
20 corporation under this subchapter [~~chapter~~].

21 (b) The public agency, local taxing jurisdiction, economic
22 development corporation, or attorney general, as applicable, shall
23 recover court costs and reasonable attorney's fees incurred in an
24 action brought under Subsection (a).

25 (c) A business is not liable for a violation of this
26 subchapter [~~chapter~~] by a subsidiary, affiliate, or franchisee of
27 the business, or by a person with whom the business contracts.

1 SECTION 5.03. The heading to Subchapter C, Chapter 2264,
2 Government Code, is amended to read as follows:

3 SUBCHAPTER C. E-VERIFY PROGRAM [~~ENFORCEMENT~~]

4 SECTION 5.04. Subchapter C, Chapter 2264, Government Code,
5 is amended by adding Sections 2264.1011, 2264.102, 2264.103,
6 2264.104, and 2264.105 to read as follows:

7 Sec. 2264.1011. DEFINITIONS. In this subchapter:

8 (1) "E-verify program" has the meaning assigned by
9 Section 673.001.

10 (2) "State agency" has the meaning assigned by Section
11 2103.001.

12 Sec. 2264.102. VERIFICATION BY CONTRACTORS. (a) A state
13 agency may not award a contract for goods or services within this
14 state to a contractor unless the contractor and any subcontractor
15 register with and participate in the E-verify program to verify
16 employee information. The contractor and any subcontractor must
17 continue to participate in the program during the term of the
18 contract.

19 (b) Each contract with a state agency must include the
20 following statement:

21 "_____ (name of contractor) certifies that
22 _____ (name of contractor) is not ineligible to receive this
23 contract under Subchapter C, Chapter 2264, Government Code, and
24 acknowledges that if this certification is inaccurate or becomes
25 inaccurate during the term of the contract, the contractor may be
26 barred from participating in state contracts."

27 (c) If a state agency determines that a contractor was

1 ineligible to have the contract awarded under Subsection (a), that
2 a contractor has ceased participation in the E-verify program
3 during the term of the contract, or that a subcontractor is not
4 registered with or is not participating in the E-verify program,
5 the state agency shall terminate the contract and refer the matter
6 to the comptroller for action.

7 (d) Each state agency shall develop procedures for the
8 administration of this section.

9 Sec. 2264.103. EXCEPTION. A contractor or subcontractor
10 under a contract to which Section 2264.102 applies is not required
11 to verify employee information through the E-verify program during
12 any year for which the federal government has not funded the
13 E-verify program.

14 Sec. 2264.104. BARRING FROM STATE CONTRACTS. (a) Using
15 procedures prescribed under Section 2155.077, the comptroller may
16 bar a contractor from participating in state contracts if the
17 comptroller determines that the contractor:

18 (1) was awarded a contract in violation of Section
19 2264.102;

20 (2) has ceased participation in the E-verify program
21 during the term of the contract; or

22 (3) knowingly hired a subcontractor, other than a
23 subcontractor who acts exclusively as a supplier for the contract,
24 to perform work under the contract who is not registered with or is
25 not participating in the E-verify program.

26 (b) Debarment under this section is for a period of one year
27 except that the debarment may be extended by the comptroller for

1 additional one-year periods if the comptroller determines that the
2 grounds for debarment under this section continue to exist.

3 (c) It is an affirmative defense to a debarment proceeding
4 under this section that the contractor did not know that a
5 subcontractor hired to perform work under the contract is not
6 registered with or is not participating in the E-verify program.

7 Sec. 2264.105. CONTRACT TERMINATION. If a state agency
8 terminates a contract for a reason described by Section
9 2264.102(c), the agency may require the contractor to pay any costs
10 associated with the termination.

11 SECTION 5.05. Subtitle B, Title 2, Labor Code, is amended by
12 adding Chapter 53 to read as follows:

13 CHAPTER 53. VERIFICATION OF EMPLOYEE INFORMATION

14 Sec. 53.001. DEFINITIONS. In this chapter:

15 (1) "Commission" means the Texas Workforce
16 Commission.

17 (2) "Employee" means an individual who is employed by
18 an employer for compensation. The term includes an individual
19 employed on a part-time basis.

20 (3) "Employer" means a person, other than a
21 governmental entity or a sole proprietorship, who:

22 (A) employs one or more employees; or

23 (B) acts directly or indirectly in the interests
24 of an employer in relation to an employee.

25 (4) "Employment" means any service, including service
26 in interstate commerce, that is performed for wages or under a
27 contract of hire, whether written or oral or express or implied.

1 The term does not include any service performed by an individual for
2 wages if it is shown that the individual is free from control or
3 direction in the performance of the service, both under any
4 contract of service and in fact.

5 (5) "E-verify program" has the meaning assigned by
6 Section 673.001, Government Code.

7 (6) "Person not lawfully present" means a person who,
8 at the time of employment, is not:

9 (A) a citizen or national of the United States;
10 or

11 (B) an alien who is lawfully admitted for
12 permanent residence in the United States under the federal
13 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) or
14 authorized to be employed by that Act or the United States attorney
15 general.

16 Sec. 53.002. EMPLOYEE STATUS. An employer may not classify
17 an individual performing services for the employer as an
18 independent contractor instead of as an employee of the employer
19 solely for the purpose of avoiding the requirements applicable to
20 an employer under this chapter.

21 Sec. 53.003. VERIFICATION AND RECORDS. (a) An employer
22 shall register and participate in the E-verify program to verify
23 information of all new employees.

24 (b) The employer must verify a new employee's information
25 not later than the third business day of the employee's employment.
26 If the E-verify program is unavailable during the first three
27 business days of the new employee's employment, the employer must

1 verify the employee's information by submitting the employment
2 eligibility verification form commonly referred to as the I-9 to
3 the appropriate governmental entity.

4 (c) An employer shall maintain a record of an employee
5 verification for at least three years.

6 Sec. 53.004. EXCEPTION. (a) An employer is not required to
7 verify employee information through the E-verify program during any
8 year for which the federal government has not funded the E-verify
9 program.

10 (b) For purposes of this section, Section 2264.103,
11 Government Code, and Section 181.003, Local Government Code, the
12 commission shall:

13 (1) monitor whether the federal government has funded
14 the E-verify program for the current year; and

15 (2) maintain in a conspicuous location on the
16 commission's Internet website updated information regarding
17 whether the federal government has funded the E-verify program for
18 the current year.

19 Sec. 53.005. ENFORCEMENT BY STATE AGENCIES; RULES. (a)
20 Notwithstanding any other law, each appropriate state agency shall
21 ensure that employers in this state comply with Section 53.003 and
22 may require compliance with that section as a condition of a
23 license, certificate, registration, permit, or other authorization
24 issued by the agency that is required for a person to practice or
25 engage in a particular business, occupation, or profession in this
26 state.

27 (b) Notwithstanding any other law, if a state agency that

1 issues a license, certificate, registration, permit, or other
2 authorization for a person to practice or engage in a particular
3 business, occupation, or profession in this state determines that
4 an employer's failure to comply with Section 53.003 has resulted in
5 the employer's employment of a person not lawfully present, the
6 state agency may:

7 (1) suspend or revoke any license, certificate,
8 registration, permit, or other authorization issued by the agency
9 to the employer, as follows:

10 (A) for an employer who employs at least one but
11 not more than 10 persons not lawfully present, suspension for 30
12 days;

13 (B) for an employer who employs at least 11 but
14 not more than 50 persons not lawfully present, suspension for 60
15 days; and

16 (C) for an employer who employs 51 or more
17 persons not lawfully present, permanent revocation; and

18 (2) if applicable, require the employer to pay back
19 any economic development funds received as part of an economic
20 development program administered by this state.

21 (c) A proceeding under Subsection (b) is subject to Chapter
22 2001, Government Code.

23 (d) Each appropriate state agency shall adopt rules and
24 prescribe forms as necessary to implement this section.

25 SECTION 5.06. Subtitle C, Title 5, Local Government Code,
26 is amended by adding Chapter 181 to read as follows:

27 CHAPTER 181. VERIFICATION OF EMPLOYEE INFORMATION

1 Sec. 181.001. DEFINITIONS. In this chapter:

2 (1) "E-verify program" has the meaning assigned by
3 Section 673.001, Government Code.

4 (2) "Political subdivision" means a county,
5 municipality, school district, junior college district, other
6 special district, or other subdivision of state government.

7 Sec. 181.002. VERIFICATION AND RECORDS. (a) A political
8 subdivision shall register and participate in the E-verify program
9 to verify information of all new employees.

10 (b) The political subdivision must verify a new employee's
11 information not later than the third business day of the employee's
12 employment. If the E-verify program is unavailable during the
13 first three business days of the new employee's employment, the
14 political subdivision must verify the employee's information by
15 submitting the employment eligibility verification form commonly
16 referred to as the I-9 to the appropriate governmental entity.

17 (c) A political subdivision shall maintain a record of an
18 employee verification for at least three years.

19 Sec. 181.003. EXCEPTION. A political subdivision is not
20 required to verify employee information through the E-verify
21 program during any year for which the federal government has not
22 funded the E-verify program.

23 Sec. 181.004. TERMINATION OF EMPLOYMENT. An employee of a
24 political subdivision who is responsible for verifying information
25 of new employees of the political subdivision as required by
26 Section 181.002 is subject to immediate termination of employment
27 if the employee fails to comply with that section.

ARTICLE 6. TRANSITIONS AND EFFECTIVE DATE

SECTION 6.01. Article 2.251, Code of Criminal Procedure, as amended by this Act, applies only to a person arrested or otherwise taken into custody by a law enforcement agency on or after the effective date of this Act.

SECTION 6.02. As soon as practicable after the effective date of this Act, the governor shall extend an invitation to each federal agency described by Section 421.0211, Government Code, as added by this Act, for membership to the Homeland Security Council established under Subchapter B, Chapter 421, Government Code.

SECTION 6.03. (a) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 531.552, Government Code, as added by this Act.

(b) Notwithstanding Section 531.552, Government Code, as added by this Act, the Health and Human Services Commission is not required to submit the initial report required by that section until November 1, 2025.

SECTION 6.04. Each state agency subject to Subchapter C, Chapter 2264, Government Code, as amended by this Act, shall develop the procedures required under Section 2264.102(d), Government Code, as added by this Act, not later than December 31, 2024.

SECTION 6.05. Sections 2264.1011, 2264.102, 2264.103, 2264.104, and 2264.105, Government Code, as added by this Act, apply only in relation to a contract entered into on or after January 1, 2025.

1 SECTION 6.06. As soon as practicable after the effective
2 date of this Act, each appropriate state agency subject to Section
3 53.005, Labor Code, as added by this Act, shall adopt rules and
4 prescribe forms as required by that section.

5 SECTION 6.07. Sections 53.003, Labor Code, and 181.002,
6 Local Government Code, as added by this Act, apply beginning
7 January 1, 2025.

8 SECTION 6.08. This Act takes effect on the 91st day after
9 the last day of the legislative session.