

Regular Session, 2011

HOUSE BILL NO. 59

BY REPRESENTATIVE HARRISON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EMPLOYMENT: Creates the Louisiana Taxpayer and Citizen Protection Act of 2011

1 AN ACT

2 To enact Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 49:1311 through 1322, relative to immigration; to provide with respect to  
4 eligibility for public benefits, postsecondary education benefits, and employment;  
5 to provide for verification of citizenship status; to provide with respect to law  
6 enforcement; to create certain crimes; to provide for penalties; to provide for  
7 definitions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 49:1311 through 1322, is hereby enacted to read as follows:

11 CHAPTER 21. THE LOUISIANA TAXPAYER AND CITIZEN

12 PROTECTION ACT OF 2011

13 PART I. GENERAL PROVISIONS

14 §1311. Title

15 This Chapter may be cited as the "Louisiana Taxpayer and Citizen Protection  
16 Act".

17 §1312. Legislative intent

18 The Louisiana Legislature finds that illegal immigration has resulted in  
19 economic hardship and lawlessness within the state and that illegal immigration is  
20 encouraged when public agencies provide public benefits without verifying

1 immigration status. The Louisiana Legislature declares that there is a compelling  
2 state interest in the cooperative enforcement of federal immigration laws throughout  
3 the state of Louisiana. The legislature further declares that the intent of this Chapter  
4 is to make attrition through enforcement the public policy of all agencies and  
5 political subdivisions of Louisiana. The provisions of this Chapter are intended to  
6 discourage and deter the unlawful entry and presence by persons unlawfully present  
7 in the United States.

8 §1313. Definitions; construction

9 A. For purposes of this Chapter, the following definitions shall apply:

10 (1) "Contractor" or "subcontractor" as used in this Section, includes any  
11 contract employee, staffing agency, or any contractor or subcontractor.

12 (2) "Illegal alien" shall mean any person not lawfully present in the United  
13 States. Except as otherwise provided or clearly indicated from the context in which  
14 it is used, "illegal alien" shall also include persons defined by any term used in  
15 federal law relative to immigration, including but not limited to "unauthorized alien",  
16 "unqualified alien", and "alien not lawfully present in the United States".

17 (3) "Public employer" means any department, agency, or instrumentality of  
18 the state or a political subdivision thereof, or the recipient of a grant of more than  
19 fifty thousand dollars.

20 (4) "Status verification system" means an electronic system operated by the  
21 federal government, through which a public or private employer located in this state  
22 or a political subdivision of this state may make an inquiry, by exercise of authority  
23 delegated pursuant to federal law, to verify or ascertain the employment  
24 authorization status of any individual to whom an offer of employment has been  
25 made in this state. The status verification system shall be deemed to include either  
26 of the following:

27 (a) The electronic verification of work authorization program of the Illegal  
28 Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208,

1 Division C, Section 403(a); 8 U.S.C. 1324a, and operated by the United States  
2 Department of Homeland Security, known as the E-Verify Program.

3 (b) Any equivalent federal program designated by the United States  
4 Department of Homeland Security or any other federal agency authorized to verify  
5 the work eligibility status of newly hired employees, pursuant to the Immigration  
6 Reform and Control Act of 1986 (IRCA), P.L. 99-603.

7 B. The provisions of this Chapter shall be implemented in a manner  
8 consistent with federal laws regulating immigration, protecting the civil rights of all  
9 persons, and respecting the privileges and immunities of United States citizens.

## 10 PART II. PUBLIC BENEFITS

### 11 §1314. Public benefits

12 A. Except as provided in Subsection C of this Section or where exempted by  
13 federal law, each agency and political subdivision of this state, as defined in Article  
14 VI, Section 44(2) of the Constitution of Louisiana, shall verify the lawful presence  
15 in the United States of any natural person fourteen years of age or older who has  
16 applied for state or local public benefits, as defined in 8 U.S.C. 1621, or for federal  
17 public benefits, as defined in 8 U.S.C. 1611, which are administered by any agency  
18 or a political subdivision of this state.

19 B. The provisions of this Section shall be enforced without regard to race,  
20 religion, gender, ethnicity, or national origin.

21 C. Verification of lawful presence pursuant to the provisions of this Section  
22 shall not be required for any of the following:

23 (1) For health care services or goods that are necessary for the treatment of  
24 an emergency medical condition, as defined in 42 U.S.C. 1396b(v)(3), for the illegal  
25 alien involved if the services or goods are not related to an organ transplant  
26 procedure.

27 (2) For short-term, noncash, in-kind emergency disaster relief.

1           (3) For immunizations and public health assistance with respect to diseases  
2           and for testing and treatment of symptoms of communicable diseases whether or not  
3           such symptoms are caused by a communicable disease.

4           (4) For assistance, programs, and services such as food banks, crisis  
5           counseling and intervention services, and short-term shelter services specified by the  
6           United States Secretary of Homeland Security, with the sole discretion of the  
7           secretary after consultation with appropriate federal agencies and departments which:

8                   (a) Deliver in-kind services at the community level through public or private  
9                   nonprofit agencies.

10                   (b) Do not condition the provision of assistance, the amount of assistance  
11                   provided, or the cost of assistance provided on the income, resources, or residency  
12                   of the individual recipient.

13                   (c) Are necessary for the protection of life or safety.

14                   D.(1) Verification of lawful presence in the United States by the agency or  
15                   political subdivision required to make such verification shall require that the  
16                   applicant execute an affidavit under penalty of perjury stating that he is either a  
17                   United States citizen or a qualified alien as defined by 8 U.S.C. 1641.

18                   (2) The applicant shall be responsible for the payment of notary public  
19                   services for the execution of the affidavit required by Paragraph (1) of this  
20                   Subsection.

21                   E. For any applicant who has executed the affidavit described in Paragraph  
22                   (D)(1) of this Section, eligibility for benefits shall be verified through the Systematic  
23                   Alien Verification for Entitlements (SAVE) Program operated by the United States  
24                   Department of Homeland Security or an equivalent program designated by the  
25                   United States Department of Homeland Security. Until such eligibility verification  
26                   is made, the affidavit may be presumed to be proof of lawful presence for the  
27                   purposes of this Section.

28                   F. Any person who knowingly and willfully makes a false, fictitious, or  
29                   fraudulent statement of representation in an affidavit executed pursuant to

1        Subsection D of this Section may be charged with the crime of false swearing as  
2        provided by R.S. 14:125. If the affidavit constitutes a false claim of citizenship  
3        under 18 U.S.C. 911, a complaint shall be filed by the agency requiring the affidavit  
4        with the United States Attorney's Office for the applicable district as determined by  
5        the location in which the affidavit was executed.

6                G. Agencies and political subdivisions of this state may adopt by regulation  
7        variations to the requirements of this Section if the variations demonstrably improve  
8        the efficiency or reduce delay in the verification process or provide for adjudication  
9        of unique individual circumstances where the verification procedures would impose  
10       unusual hardship on an individual who is a legal resident of Louisiana.

11               H. It shall be unlawful for any agency or a political subdivision of this state  
12       to provide any state, local, or federal benefit, as defined in 8 U.S.C. 1621 or 8 U.S.C.  
13       1611 in violation of the provisions of this Section.

14               I. Each state or local agency or department which administers any program  
15       of federal, state, or local public benefits shall provide an annual report to the office  
16       of inspector general which details compliance by each agency or department. The  
17       report shall include information regarding applications for benefits made by illegal  
18       aliens, and any incidence of fraud, abuse, or application verification errors or  
19       significant delays. The inspector general shall publish an annual report, which shall  
20       be made available for public inspection, disclosing public benefits provided to legal  
21       aliens. The report may also include recommendations to reduce fraud and abuse by  
22       illegal aliens and to ensure that the application of the SAVE program does not  
23       erroneously deny benefits to eligible legal residents of Louisiana.

24                                PART III. HIGHER EDUCATION

25        §1315. Postsecondary education benefits; eligibility

26               A. An illegal alien shall not be eligible on the basis of residence within the  
27       state for any postsecondary education public benefit including but not limited to  
28       resident tuition, restricted admissions programs for disadvantaged or minority  
29       applicants, scholarships, work-study programs, or financial aid.

1           B. The provisions of Subsection A of this Section shall not apply to any  
2           student who has received a resident tuition benefit and is currently enrolled in any  
3           degree program at a postsecondary educational institution within this state if he  
4           initially enrolled prior to or during the 2011-2012 school year.

5           PART IV. COOPERATIVE IMMIGRATION LAW ENFORCEMENT

6           §1316. Verification of status upon booking; bond determination; transfer of  
7           detainees to federal custody

8           A. At the time of booking, any peace officer causing an arrest to be made  
9           shall attempt to verify the citizenship status of the person arrested, and such status  
10           shall be included in the entry of arrest and summary bookings maintained by the law  
11           enforcement agency.

12           B.(1) If the person arrested is not a citizen or national of the United States,  
13           the peace officer having custody of the person arrested shall attempt to verify  
14           whether the person arrested is lawfully or unlawfully present in the United States  
15           pursuant to federal immigration law.

16           (2) If verification of lawful status cannot be confirmed by documents in the  
17           possession of the arrested person, verification shall be made through a query to the  
18           Law Enforcement Support Center of the United States Department of Homeland  
19           Security, or other office or agency designated for that purpose by the United States  
20           Department of Homeland Security. The peace officer shall attempt to complete the  
21           verification prior to releasing the arrested person from custody. If the arrested  
22           person is verified to be an illegal alien, his immigration status and the basis for  
23           verification shall be included in the record of arrest maintained by the law  
24           enforcement agency or by the state. If the lawful immigration status of the person  
25           arrested cannot be verified prior to his release, the arresting law enforcement agency  
26           shall notify the United States Department of Homeland Security.

27           C. For the purpose of determining the granting or issuance of bail for an  
28           arrested person whose immigration status has been verified pursuant to Subsection

1 B of this Section as being unlawful, there shall be a rebuttable presumption that the  
2 arrested person is a flight risk.

3 D.(1) Notwithstanding any other provision of law to the contrary, a law  
4 enforcement agency may securely transport an arrested person in its custody who has  
5 been verified as being an illegal alien to a federal facility in this state or to any other  
6 point of transfer into federal custody that is outside the jurisdiction of the law  
7 enforcement agency.

8 (2) If the point of transfer is located outside of this state, the illegal alien  
9 shall be served with a copy of a detainer request issued by a federal immigration  
10 officer or with a record of judicial authorization for such transfer before the transfer  
11 may occur.

12 §1317. Criminal offenses

13 A. It shall be unlawful for any person to move, transport, or attempt to  
14 transport any illegal alien within this state in furtherance of the illegal presence of  
15 the alien in the United States, when the offender knows or should have known that  
16 the alien has entered or remained in the United States illegally.

17 B. It shall be unlawful for any person to harbor, conceal, or shelter from  
18 detection any illegal alien in any place within this state, including both movable and  
19 immovable property, when the offender knows or should have known that the alien  
20 has entered or remained in the United States illegally and when either of the  
21 following occur:

22 (1) The offender obtained or intended to obtain a profit, valuable  
23 consideration, or commercial advantage from any criminal offense described in this  
24 Section.

25 (2) The offender commits another criminal offense within this state while  
26 engaged in the perpetration of any of the criminal offenses contained in this Section.

27 C. It shall be unlawful for any illegal alien lacking employment authorization  
28 to knowingly apply for work, solicit work in a public place, or perform work for  
29 compensation in this state, as an employee or as independent contractor.

1           D. Nothing in this Section shall be construed to impose criminal penalties  
2           on the basis of immigration status and for recipients or beneficiaries of emergency,  
3           first responder, or child protective services, or for regulated public health services.

4           E.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, for a first  
5           conviction, whoever commits any offense involving the moving, transporting,  
6           attempting to transport, harboring, concealing, or sheltering of any illegal alien shall  
7           be fined not less than five hundred dollars, imprisoned not more than six months, or  
8           both.

9           (b) Whoever commits an offense involving the moving, transporting,  
10           attempting to transport, harboring, concealing, or sheltering of six or more illegal  
11           aliens shall be fined not less than one thousand dollars for each illegal alien assisted  
12           and imprisoned for not less than one year.

13           (2) Upon a subsequent conviction, whoever commits an offense involving  
14           the moving, transporting, attempting to transport, harboring, concealing, or  
15           sheltering of any illegal alien shall be fined not less than one thousand dollars for  
16           each illegal alien assisted and imprisoned for not less than one year.

17           §1318. Memorandum of understanding

18           A. The attorney general of this state is authorized and directed to negotiate  
19           the terms of a memorandum of understanding between the state of Louisiana and the  
20           United States Department of Justice or the United States Department of Homeland  
21           Security, as provided by 8 U.S.C. 1357(g), relative to the enforcement of federal  
22           immigration and customs laws, detention, removals, and investigations in the state  
23           of Louisiana.

24           B. The memorandum of understanding shall be signed on behalf of the state  
25           of Louisiana by the attorney general of this state and by the governor or other public  
26           official as provided by the appropriate federal agency.

27           C. Nothing in this Section shall be construed to require an agreement with  
28           a federal agency in order for any officer or employee of a state or political  
29           subdivision to communicate with the appropriate federal agency regarding the



1 immigration status of any individual, including reporting knowledge of the presence  
2 of any illegal alien, or to otherwise cooperate with the appropriate federal agency in  
3 the identification, apprehension, detention, or removal of illegal aliens.

4 §1319. Restriction on local ordinances; right of action

5 A. No local government, whether acting through its governing body or by  
6 an initiative, referendum, or any other process, shall enact or implement any  
7 ordinance or policy that limits or prohibits a law enforcement officer, local official,  
8 or local governmental employee from communicating or cooperating with federal  
9 officials or agencies with regard to the immigration status of any person within this  
10 state.

11 B. Notwithstanding any other provision of law to the contrary, no  
12 government entity or official within this state may prohibit or in any way restrict any  
13 government entity or official from exchanging information with the United States  
14 Department of Homeland Security regarding the citizenship or immigration status  
15 of any individual.

16 C. Notwithstanding any other provision of law to the contrary, no person or  
17 agency may prohibit or in any way restrict any public employee from requesting,  
18 receiving, or sending information regarding the immigration status of any individual  
19 to or from the United States Department of Homeland Security, maintaining such  
20 information, or exchanging such information with any other federal, state, or local  
21 government entity.

22 D. The provisions of R.S. 49:1314, 1315, and this Section shall authorize any  
23 natural or juridical person lawfully domiciled in this state to file for a writ of  
24 mandamus to compel any noncooperating local or state governmental agency to  
25 comply with requirements of this Section.

26 PART V. IMMIGRATION AND WORK AUTHORIZATION STATUS

27 §1320. Work authorization status verification system

28 A.(1) No later than March 15, 2012, every public employer shall register  
29 with and utilize a status verification system to verify the federal employment

1 authorization status of all new employees. No public employer shall enter into a  
2 contract for services to be performed or provided within this state, unless the  
3 contractor has registered and participates in the status verification system to verify  
4 the work eligibility status of all new employees.

5 (2) The provisions of this Subsection shall not apply to contracts entered into  
6 prior to August 15, 2011, even if such contracts may involve the performance of  
7 services within the state of Louisiana after such date.

8 B. No employee shall be discharged or retaliated against in any other  
9 manner, by his employer, for making a complaint to the employing entity, the United  
10 States Department of Homeland Security, any law enforcement agency, or the  
11 Louisiana Workforce Commission alleging that employment in Louisiana is  
12 unauthorized.

13 C. Any employment entity who was enrolled in and used a status verification  
14 system to verify the employment eligibility of employees hired after August 15,  
15 2011, shall be exempt from liability under the provisions of this Section for a  
16 discharge of any illegal alien that occurs on or after that date.

17 D. Any natural or juridical person lawfully domiciled in this state may file  
18 for a writ of mandamus to compel any noncooperating public employer or contractor  
19 to comply with requirements of this Section.

20 §1321. Identification documents

21 A. Notwithstanding any other provision of law to the contrary, the following  
22 entities may create, publish, or otherwise manufacture an identification document,  
23 identification card, or identification certificate and may possess an engraved plate  
24 or other such device for the printing of such identification provided that the name of  
25 the issuing entity is clearly printed upon the face of the identification:

26 (1) Businesses, companies, corporations, service organizations, and federal,  
27 state, and local governmental agencies for use as employee identification which is  
28 designed to identify the bearer as an employee.

1           (2) Businesses, companies, corporations, and organizations for use as  
2           identification which is designed to identify the bearer as a customer or member.

3           (3) Federal, state, and local government agencies for purposes authorized or  
4           required by law or any legitimate purpose consistent with the duties of such an  
5           agency, including but not limited to voter identification cards, drivers' licenses,  
6           special identification cards, passports, birth certificates, and social security cards.

7           (4) Any public, private, or parochial school to identify the bearer as an  
8           administrator, faculty member, student, or employee.

9           (5) Any professional organization or labor union to identify the bearer as a  
10           member.

11           (6) Businesses, companies, or corporations which manufacture medical-alert  
12           identification for the wearer thereof.

13           B.(1) Identification documents as provided in Paragraph (A)(3) of this  
14           Section shall be issued only to United States citizens, nationals, and legal permanent  
15           resident aliens.

16           (2) Identification documents as provided in Paragraph (A)(4) of this Section  
17           shall be issued only to United States citizens, nationals, and legal permanent resident  
18           aliens unless the identification document is only valid for use on the campus or  
19           facility of the educational institution and includes a statement of such restricted  
20           validity clearly and conspicuously printed upon the face of the identification  
21           document.

22           C. The provisions of Subsection B of this Section shall not apply when an  
23           applicant presents, in person, valid documentary evidence of any of the following:

24           (1) A valid, unexpired immigrant or nonimmigrant visa status for admission  
25           into the United States.

26           (2) A pending or approved application for asylum in the United States.

27           (3) Admission into the United States with refugee status.

28           (4) A pending or approved application for temporary protected status in the  
29           United States.

1           (5) Approved deferred action status.

2           (6)(a) A pending application for adjustment of status to legal permanent  
3 residence status or conditional resident status.

4           (b) Upon approval, the applicant for adjustment of status may be issued an  
5 identification document provided for in Paragraphs (A)(3) and (A)(4) of this Section.  
6 Such identification document shall be valid only during the authorized stay of the  
7 applicant in the United States or, if there is no definite end to the period of  
8 authorized stay, it shall be valid for a period of one year. Any identification  
9 document issued pursuant to the provisions of this Section shall clearly indicate that  
10 the identification is temporary and shall state the date that the identification  
11 document expires. Such identification document may be renewed only upon  
12 presentation of valid documentary evidence that the status by which the applicant  
13 qualified for the identification document has been extended by the United States  
14 Citizenship and Immigration Services or other authorized agency of the United  
15 States Department of Homeland Security.

16           D. The requirements of Subsection C of this Section shall apply to the first  
17 renewal, the duplication and the reissuance of a driver's license or special  
18 identification card issued prior to August 15, 2011. The provisions of this  
19 Subsection shall not apply to United States citizens, nationals, or legal permanent  
20 resident aliens.

21           §1322. Fraudulent documents identification unit

22           Subject to the availability of funding, the attorney general of this state shall  
23 establish a Fraudulent Documents Identification (FDI) Unit for the primary purpose  
24 of investigating and apprehending persons or entities that participate in the sale or  
25 distribution of fraudulent documents used for identification purposes. The unit shall  
26 provide specialized training to state and local government agencies in the detection  
27 of fraudulent identification documents created or prepared for illegal aliens residing  
28 in the state of Louisiana. The attorney general of this state shall employ sufficient  
29 employees to investigate and implement an FDI Unit.

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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Harrison

HB No. 59

**Abstract:** Creates the La. Taxpayer and Citizen Protection Act of 2011 to provide with respect to verification of citizenship status of residents of Louisiana as it relates to employment, educational benefits, public benefits, identification, arrest, criminal offenses, and law enforcement.

Proposed law creates the La. Taxpayer and Citizen Protection Act of 2011.

Proposed law requires that agencies use the Systematic Alien Verification for Entitlements (SAVE) program to verify the citizenship status for persons ages 14 and older who apply for public benefits, except for certain emergency services in certain situations and for the prevention and treatment of communicable diseases.

Proposed law further provides that as a temporary verification of citizenship status while awaiting confirmation by the SAVE program, an applicant for public services shall execute a notarized affidavit stating that he is a U.S. citizen or a qualified alien.

Proposed law provides that any illegal alien who enrolls in a postsecondary institution within the state of La. after the 2011-2012 school year shall not be eligible for any resident tuition benefit, restricted admission program for disadvantaged or minority applicants, work-study program, or financial aid.

Proposed law provides that upon booking, an arresting law enforcement officer shall verify the citizenship status of the arrested person.

Proposed law requires law enforcement agencies to attempt to verify the citizenship status of an arrested person before release from custody. If his status cannot be verified before his release, the agency shall notify the U.S. Dept. of Homeland Security.

Proposed law specifies that if the arrested person is an illegal alien, the law enforcement agency may transfer him into federal custody.

Proposed law creates the crimes of unlawfully moving, transporting, attempting to transport, harboring, concealing, or sheltering an illegal alien if the offender knew or should have known the person is unlawfully present in the U.S., and specifies penalties for conviction of those crimes.

Proposed law provides that it is unlawful for any illegal alien who lacks employment authorization to seek employment.

Proposed law authorizes the attorney general to negotiate a memorandum of understanding between the state of La. and the federal government relative to the enforcement of immigration laws.

Proposed law prohibits local governing bodies from enacting any ordinance which would limit cooperation in the enforcement of immigration laws.

Proposed law requires every public employer to utilize a status verification system to verify employment authorization status for all new employees.

Proposed law allows certain entities to manufacture identification documents, cards, or certificates only to U.S. citizens, nationals, or legal permanent resident aliens unless the identification clearly indicates a specific and limited use or if the applicant presents evidence that he is lawfully present in the U.S.

Proposed law requires that, subject to availability of funding, the attorney general shall establish a fraudulent document identification unit to investigate and apprehend persons in violation of proposed law.

(Adds R.S. 49:1311-1322)