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Section by Section breakdown of HB 56 (Conference Committee Substitute)

Section 1: Title: “Beason-Hammon Alabama Taxpayer and Citizen Protection Act”

Section 2: legislative findings/intent. “... illegal immigration is causing economic hardship and lawlessness in this state ... costs incurred by school districts for education of children who are not lawfully present can adversely affect resources... certain practices currently allowed in this state impede and obstruct the enforcement of federal immigration law, undermine the security of our borders, and impermissibly restrict the privileges and immunities of the citizen of Alabama.”

Section 3: Provides meanings and definitions for various terms used throughout the bill.

Section 4: Requires the Alabama AG to attempt to negotiate the terms of a MOU between AL and the US-DHS concerning the enforcement of federal immigration and customs laws, detention and removals, and investigations in Alabama. AG must report progress to legislature within 6 months of the effective date.

Section 5: [No sanctuary city provision.] No official or agency may adopt a policy that limits or restricts the enforcement of federal immigration laws. AG to report violation to Governor and State Comptroller and that agency or political subdivision shall not be eligible to receive funds, grants, or appropriations from the State, until AG certifies that violation has ceased. Every person working in the public sector, including law enforcement has a duty to report violations of this act, or face the crime of obstructing justice. Penalties included for those found in violation of the law. Any legal resident may file a lawsuit in circuit court if they believe any official or head of an agency (does not include a law enforcement officer or jail employees) is in violation of this law. If found guilty, fines paid are equally divided between ALDHS and ALDPS.

Section 6: Mirrors Section 5, but except specifically applies to enforcement of this Act.

Section 7: Any person age 18+ must prove lawful presence (to state and local agencies) to receive any state or local public benefits, except those required by federal law. Other exemptions include: primary and secondary school education, short term, noncash, in kind emergency disaster relief, public health assistance for immunizable diseases, WIC, testing and treatment for communicable diseases, prenatal care, and child and adult protective services (including domestic violence workers). Community level programs and services such as soup kitchens, crisis counseling and intervention, and short-term shelter that are necessary for the protection of life or safety are also excluded. State and local agencies administering public benefits shall cooperate with US or ALDHS’s SAVE program (or federal approved process for CHIP) to verify lawful presence. Agencies and departments must provide annual compliance report to the legislature.

Section 8: An alien who is not lawfully present in the US shall not be permitted to enroll in or attend any public postsecondary institution. For this purpose, the institution may seek federal verification of an alien’s immigration status. Except as otherwise provided by law, unauthorized aliens shall not be eligible for any postsecondary education benefit including, but not limited to, scholarships, grants or financial aid.

Section 9: As a condition for any contract, grant or incentive by the state, any political subdivision or state-funded entity, a business must use E-verify and attest, via affidavit, that they do not knowingly employ, hire, or continue to employ an unauthorized alien. Also applies to subcontractors. Penalties for violations established. A contractor on any tier shall not be liable, if they receive a sworn affidavit from subcontractor of compliance, unless the contractor knows the direct subcontractor is in violation. Compliance of this section may be verified by the state authorities or law enforcement at any time. Created by: Alabama Appleseed Center for Law & Justice, Inc.

Section 10: Establishes a state crime for “willful failure to complete or carry an alien registration document”. Violation: C misdemeanor – fine of not more than \$100 (50% to local government where the person was apprehended, earmarked for law enforcement purposes, 25% to ALDHS and 25% ALDPS) and not more than 30 days in jail and ineligible for suspension or commutation of sentence or release on any basis until the sentence imposed is served.

Section 11: Unlawful for an unauthorized alien to knowingly apply for work, solicit work (public or private) or perform work as an employee or independent contractor. It is unlawful to impede traffic to try and hire someone and unlawful to enter a vehicle that is impeding traffic in an effort to try and hire or be hired. Violation: C misdemeanor and fine of not more than \$500. Fines to be divided as above in Sec. 10.

Section 12: Upon any lawful stop, detention or arrest made by a law enforcement officer (state, county, or municipal) and reasonable suspicion exists that a person is an alien, unlawfully present, a reasonable attempt shall be made, when practical, to determine immigration status - except if the determination may hinder or obstruct an investigation. Any alien who is arrested and booked shall have immigration status verified via feds within 24 hours of arrest or released. Law enforcement shall cooperate in the transfer of custody to federal government, if requested.

Section 13: It would be unlawful for a person to do the following knowingly or reasonably should have known the alien has come to, entered, or remains in the US in violation of federal law or applicable state law: 1. Conceal, harbor or shield (includes attempt or conspire) including building or any means of transport 2. Encourage or induce an unauthorized alien to come to or reside in Alabama 3. Transport (includes attempt or conspire) an unauthorized alien 4. Harbor by entering into a rental agreement with an unauthorized alien *Exceptions: law enforcement officer, first responder or protective services provider pursuant to state law. *Any vessel, vehicle, or aircraft used in the commission of a violation shall be subject to civil forfeiture.

*Violation: A misdemeanor for each unauthorized alien. C felony for violations involving 10 or more people.

Section 14: Class C felony for following crimes:

1. Knowingly reproduce, manufacture, sell or offer for sale false identification documents
2. To make, counterfeit, alter, amend or mutilate any certified copy of a vital record with intent to deceive
3. Obtain, possess, use, sell, or furnish (including attempts to) to another a certified copy of a vital record, with intent to deceive

* “Identification document” includes drivers’ license, nondriver identification cards, social security cards, employee identification card, vital records (birth, death, marriage and death certificates) and any card, certificate, or banking instrument (debit or credit card).

* Violation: fine up to \$1,000 for every document and be subject to any other state law (i.e. fraud charges). Fines paid to: 50% to local government where the person was apprehended, earmarked for law enforcement purposes, 25% to ALDHS and 25% ALDPS

Section 15: No business entity, employer or public employer shall knowingly employ, hire or continue to employ an undocumented person. Effective April 1, 2012, employers **MUST** use E-Verify to verify status. Penalties included for violations. DA and AG share authority to bring civil complaint to enforce. Any resident of this state may petition the AG to bring enforcement action by means of written, signed petition. Entrapment is an affirmative defense.

Section 16: No wage, compensation, whether in money or in kind or in services, paid to an undocumented person will be allowed as a deductible business expense. Penalties included for violations. Created by: Alabama Appleseed Center for Law & Justice, Inc.

Section 17: It shall be discriminatory for a business to fail to hire a legally present job applicant or discharge a legally working employee while retaining or hiring an undocumented person. Private right of action and recovery shall be limited to compensatory relief and shall not include any civil or criminal sanctions. Losing party shall pay court costs and reasonable attorneys fees for prevailing party (up to the amount paid for their legal representation).

Section 18: Amends Sec. 32-6-9, Code of Alabama. A person must carry a driver's license when driving a motor vehicle, if an officer is unable to determine by any other means that the person has a valid driver's license, law enforcement must transport the person to the nearest magistrate and a verification inquiry must be made within 48 hours to US-DHS. If the alien is determined to be unlawfully present, the person shall be considered a flight risk and shall be detained until prosecution or until handed over to federal immigration.

Section 19: When a person is charged with a crime for which bail is required, or is confined for any period, reasonable effort shall be made to determine lawful presence. A verification inquiry shall be made within 48 hours to US-DHS. If alien is determined to be unlawfully present: considered a flight risk and detained until prosecution or until handed over to federal immigration authorities.

Section 20: An unauthorized alien convicted of violating state or local law is within 30 days of release or has paid any fine required, responsible agency shall notify ICE and AL-DHS. AL-DHS shall coordinate the transfer custody to the federal immigration authorities. AL-DOC shall maintain custody during any transfer.

Section 21: An unauthorized alien who is a victim of a criminal act (or their child) or is a critical witness in any prosecution (or their child), all provisions of this act shall be stayed until all related proceedings are concluded. However, relevant law enforcement agency shall comply with federal immigration officers to take custody.

Section 22: The AL-DHS is authorized to hire, appoint and maintain officers. Unless a violation of state law occurs in their presence, officers authorized under this section shall not engage in routine law enforcement activity, except for those investigative and analytical duties necessary to carry out the enforcement of this act and fulfill the mission of AL-DHS. AL-DHS has authority to promulgate rules for the enforcement of this Act.

Section 23: The AL-DHS is authorized to coordinate with state and local law enforcement the practice and methods required to enforce this act in cooperation with federal immigration authorities.

Section 24: The AL-DHS shall file quarterly reports to the legislature on the progress being made regarding the enforcement of this act and the status of the progress being made in the effort to reduce the number of illegal aliens in the state. Report shall include: statistics and results from the enforcement of this act and suggestions on what can be done to further advance the effort to remove illegal aliens from the state. Report shall be made public and announced through AG press release. FY2013 report filed 2x/year and FY2015, annually.

Section 25: Solicitation to violate, an attempt to violate, or a conspiracy to violate this act shall have the same penalty as violation of this act.

Section 26: Within 90 days of the effective date, AL-DHS shall establish and maintain an E-verify employer agent service and provide, free of charge, E-verify verification for any business or employer in this state with 25 or fewer employees. Every 3 months, AL-DHS shall request a list of businesses enrolled in E-verify and make the list available on their website. Compliance with E-verify requirements shields employer from liability under AL law for any action by an employee for wrongful discharge or retaliation based on notification from E-verify program that the employee is an unauthorized alien.
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Section 27: No court shall enforce the terms of, or otherwise regard as valid, any contract between a party and an alien unlawfully present, if the party had direct or constructive knowledge that the alien was unlawfully present and the time the contract was entered into, and the performance of the contract required the alien to remain in the US for more than 24 hours after the time the contract was entered into or performance required remaining. Exceptions: lodging for one night, purchase of food, medical services, or contract for transportation intended to facilitate alien's return to country of origin. Contracts authorized by federal law are also excluded.

Section 28: Public elementary and secondary schools shall determine (using student's birth certificate) whether an enrollee was born outside the US or is the child of an alien not lawfully present and qualified for assignment to ESL or other remedial program. If student was born outside the US or is not lawfully present, or the birth certificate is not available, the parent, guardian or legal custodian shall notify the school within 30 days of the date of enrollment the actual citizenship or immigration status of the student. Must provide documentation or attestation (subject to perjury) that the child is US citizen or lawfully present. School districts shall annually submit data obtained pursuant to this section to the State Board of Education. BOE shall compile and submit an annual public report to the legislature itemizing categories of students (and those participating in ESL), the fiscal costs of providing educational services to unlawful aliens, effects upon the standard or quality of education provided to citizen students, or expected to incur, as a consequence of enrollment of unauthorized alien students. State BOE may contract with reputable scholars and research institutions to identify and validate criteria. Public disclosure by any person of information obtained pursuant to this section which personally identifies any student shall be unlawful. Civil remedy for right of privacy violation for release of information.

Section 29: Applications for voter registration shall give voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations. Must be a US citizen to register to vote. [Note: This section includes details not included in this summary.]

Section 30: Any person entering into a business transaction (or attempting) with the state or political subdivision is required to show US citizenship or lawful presence through SAVE or US-DHS. "Business transaction" includes but is not limited to: vehicle tag, drivers' license or nondriver identification card, or applying for a business license. Act excludes marriage license. Violation is Class C Felony.

Section 31: Nothing is construed to implement REAL ID.

Section 32: Amendment 621 language

Section 33: Severability clause

Section 34: Effective dates

- Sections 22 & 23 become effective immediately upon approval by Governor
- Section 9 effective 1/1/12
- Section 15 effective 4/1/12
- The remainder of the act shall become effective on the first day of the 3rd month after passage and approval by the Governor