

## HOUSE BILL No. 2578

By Committee on Federal and State Affairs

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1 AN ACT concerning immigration; relating to the enforcement of federal  
2 immigration laws; concerning the determination of citizenship;  
3 notification; exchange of information; indemnification;  
4 implementation; cooperative agreements.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) No official or agency of a governmental entity may  
8 adopt a policy that limits or restricts the enforcement of federal  
9 immigration laws to less than the full extent permitted by federal law, or  
10 that in any way limits communication between its officers and federal  
11 immigration officials in violation of 8 U.S.C. § 1373. If, in the judgment  
12 of the attorney general of Kansas, an official or agency of a governmental  
13 entity is in violation of this subsection, such governmental entity shall not  
14 be eligible to receive any funds, grants or appropriations from the state of  
15 Kansas until such violation has ceased and the attorney general has so  
16 certified.

17 (b) All governmental entity officials, agencies and personnel shall  
18 fully comply with, and, to the full extent permitted by law, support the  
19 enforcement of federal law prohibiting the entry into, presence or  
20 residence in the United States of aliens in violation of federal immigration  
21 law.

22 (c) Upon any lawful stop, detention, or arrest made by a state, county  
23 or city law enforcement officer of this state in the enforcement of any state  
24 law or ordinance of a city or county of this state, where reasonable  
25 suspicion exists that the person is an alien and is unlawfully present in the  
26 United States, a reasonable attempt shall be made, when practicable, to  
27 determine the citizenship and immigration status of the person, except if  
28 the determination may hinder or obstruct an investigation. Such  
29 determination shall be made by contacting the federal government  
30 pursuant to 8 U.S.C. § 1373(c) and relying upon any verification provided  
31 by the federal government. Any alien who is arrested and taken into  
32 custody shall have such alien's immigration status determined before the  
33 alien is released. The alien's immigration status shall be verified with the  
34 federal government pursuant to 8 U.S.C. § 1373(c). At no point shall any  
35 law enforcement officer attempt to independently verify the immigration  
36 status of any alien, but shall instead rely upon the verification provided by

1 the federal government. A law enforcement officer may not consider race,  
2 color or national origin in implementing the requirements of this section  
3 except to the extent permitted by the United States or Kansas constitution.  
4 A person is presumed to not be an alien who is unlawfully present in the  
5 United States if the person provides to the law enforcement officer any of  
6 the following:

7 (1) An unexpired Kansas driver's license originally issued after April  
8 20, 2007;

9 (2) an unexpired Kansas nondriver's identification card originally  
10 issued after April 20, 2007;

11 (3) a valid tribal enrollment card or other form of tribal identification;  
12 or

13 (4) if the entity requires proof of lawful presence in the United States  
14 before issuance, any valid United States federal, state or local government  
15 issued identification document.

16 (d) If an alien who is unlawfully present in the United States is  
17 convicted of a violation of state or local law, on discharge from  
18 imprisonment or assessment of any fine that is imposed, the United States  
19 bureau of immigration and customs enforcement shall be immediately  
20 notified.

21 (e) Notwithstanding any other law, a law enforcement agency may  
22 securely transport an alien whom the agency has received verification is  
23 unlawfully present in the United States and who is in the agency's custody  
24 to a federal facility in this state or to any other point of transfer into federal  
25 custody that is outside the jurisdiction of the law enforcement agency. A  
26 law enforcement agency shall obtain judicial authorization before securely  
27 transporting an alien who is unlawfully present in the United States to a  
28 point of transfer that is outside this state.

29 (f) Except as provided in federal law, officials or agencies of any  
30 governmental entity may not be prohibited or in any way be restricted  
31 from sending, receiving or maintaining information relating to the  
32 immigration status, lawful or unlawful, of any individual or exchanging  
33 that information with any other federal government entity or any  
34 governmental entity for the following official purposes:

35 (1) Determining eligibility for any public benefit, service or license  
36 provided by any federal government entity or any governmental entity;

37 (2) verifying any claim of residence or domicile if determination of  
38 residence or domicile is required under the laws of this state or a judicial  
39 order issued pursuant to a civil or criminal proceeding in this state;

40 (3) if the person is an alien, determining whether the person is in  
41 compliance with the federal registration laws prescribed by title II, chapter  
42 7 of the federal immigration and nationality act; or

43 (4) pursuant to 8 U.S.C. §§ 1373 and 1644.

1 (g) This section does not implement, authorize or establish the real ID  
2 act of 2005 (public law 109-13, division D; 119 stat. 302).

3 (h) Except in relation to matters in which the officer is adjudged to  
4 have acted in bad faith, a law enforcement officer is indemnified by the  
5 law enforcement officer's agency against reasonable costs and expenses,  
6 including attorney fees, incurred by the officer in connection with any  
7 action, suit or proceeding brought pursuant to this section in which the  
8 officer may be a defendant by reason of the officer being or having been a  
9 member of the law enforcement agency.

10 (i) In the implementation of this section, the verification of any  
11 alien's immigration status shall occur by the federal government, pursuant  
12 to 8 U.S.C. § 1373(c). At no point shall any law enforcement officer  
13 attempt to independently verify the immigration status of any alien, but  
14 shall instead rely upon the verification provided by the federal  
15 government.

16 (j) This section shall be implemented in a manner consistent with  
17 federal laws regulating immigration, protecting the civil rights of all  
18 persons and respecting the privileges and immunities of United States  
19 citizens.

20 (k) As used in this section:

21 (1) "Alien" means an alien unlawfully present in the United States, as  
22 defined by the immigration laws of the United States, 8 U.S.C. § 1101 et.  
23 seq.

24 (2) "Governmental entity" means the state or municipality as such  
25 terms are defined in K.S.A. 75-6102, and amendments thereto.

26 Sec. 2. The attorney general shall as quickly as practicable enter into  
27 a cooperative agreement with the United States department of homeland  
28 security pursuant to 8 U.S.C. § 1357(g), to designate specific state law  
29 enforcement officers as officers qualified to exercise the enforcement  
30 powers of federal immigration officers in the United States. The attorney  
31 general may negotiate the cooperative agreement or participate in its  
32 implementation in partnership with other state or local law enforcement  
33 agencies.

34 Sec. 3. If any provisions of sections 1 and 2, and amendments thereto,  
35 is held to be unconstitutional under the United States or Kansas  
36 constitutions, that provision shall be severed from this act, and the other  
37 provisions of sections 1 and 2, and amendments thereto, shall remain valid  
38 and in effect.

39 Sec. 4. This act shall take effect and be in force from and after its  
40 publication in the statute book.

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