

**HOUSE Substitute for SENATE BILL No. 329**

By Committee on Federal and State Affairs

3-14

10 AN ACT enacting the Kansas illegal alien reform act; amending K.S.A.  
11 21-3830, 22-2802 and 25-2416 ~~and K.S.A. 2007 Supp. 8-240 and 8-~~  
12 ~~1324~~, **8-1324 and 44-766**] and repealing the existing sections.

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 ~~New Section 1. As used in this act:~~

16 ~~—(a) “E-verify” means the electronic verification of work authorization~~  
17 ~~program of the illegal immigration reform and immigrant responsibility~~  
18 ~~act of 1996, P.L. 104-208, division C, section 403(a); 8 U.S.C. 1324a, and~~  
19 ~~operated by the United States department of homeland security or a~~  
20 ~~successor program established by the federal government.~~

21 ~~—(b) “Business entity” means any person or group of persons perform-~~  
22 ~~ing or engaging in any activity, enterprise, profession or occupation for~~  
23 ~~gain, benefit, advantage or livelihood, whether for profit or not-for-profit.~~  
24 ~~“Business entity” shall not include an individual employing casual do-~~  
25 ~~mestic labor. “Business entity” shall include, but not be limited to:~~

26 ~~—(1) Self-employed individuals, business entities filing articles of in-~~  
27 ~~corporation pursuant to article 60 of chapter 17 of the Kansas Statutes~~  
28 ~~Annotated, and amendments thereto; a partnership pursuant to chapter~~  
29 ~~56a of the Kansas Statutes Annotated, and amendments thereto; a limited~~  
30 ~~partnership pursuant to article 1a of chapter 56 of the Kansas Statutes~~  
31 ~~Annotated, and amendments thereto; a limited liability company pursuant~~  
32 ~~to article 76 of chapter 17 of the Kansas Statutes Annotated, and amend-~~  
33 ~~ments thereto; a foreign corporation, a foreign limited partnership or a~~  
34 ~~foreign limited liability company authorized to transact business in this~~  
35 ~~state; a business trust pursuant to article 20 of chapter 17 of the Kansas~~  
36 ~~Statutes Annotated, and amendments thereto; and any business entity~~  
37 ~~that registers with the secretary of state.~~

38 ~~—(2) Any business entity that possesses a business license, permit, cer-~~  
39 ~~tificate, approval, registration, charter or similar form of authorization~~  
40 ~~issued by the state, any business entity that is exempt by law from ob-~~  
41 ~~taining such a business license, and any business entity that is operating~~  
42 ~~unlawfully without such a business license.~~

43 ~~—(c) “Employee” has the meaning ascribed thereto in K.S.A. 44-313.~~

- 1 ~~and amendments thereto.~~
- 2 ~~—(d) “Employer” means any person employing or seeking to employ~~
- 3 ~~any person for hire. Where there are two or more putative employers,~~
- 4 ~~the person or entity taking a deductible business expense for state income~~
- 5 ~~tax purposes for the employee in question shall be considered the em-~~
- 6 ~~ployer of that person for purposes of this act.~~
- 7 ~~—(e) “Employment” means the act of employing or state of being em-~~
- 8 ~~ployed, engaged or hired.~~
- 9 ~~—(f) “Illegal alien” means any person who is not a citizen or national~~
- 10 ~~of the United States, according to the terms of 8 U.S.C. 1101 et seq. The~~
- 11 ~~state of Kansas shall not conclude that a person is an illegal alien unless~~
- 12 ~~and until an authorized representative of the state has verified with the~~
- 13 ~~federal government, pursuant to 8 U.S.C. 1373(c), that the person is an~~
- 14 ~~alien who is not lawfully present in the United States.~~
- 15 ~~—(g) “Unauthorized alien” means an alien who does not have the legal~~
- 16 ~~right or authorization under federal law to work in the United States, as~~
- 17 ~~defined by 8 U.S.C. 1324a(h)(3).~~
- 18 ~~—(h) “Work” means any job, task, employment, labor, personal serv-~~
- 19 ~~ices, or any other activity for which compensation is provided, expected~~
- 20 ~~or due, including, but not limited to, all activities conducted by business~~
- 21 ~~entities.~~
- 22 ~~—(i) “Law enforcement” means city, county and state police officers,~~
- 23 ~~highway patrol, county sheriff and any other law enforcement officers in~~
- 24 ~~the state.~~
- 25 ~~—(j) “Law enforcement agency” means any agency employing law en-~~
- 26 ~~forcement officers.~~
- 27 ~~—(k) “License” means any license, permit, certificate, approval, regis-~~
- 28 ~~tration, charter or similar form of authorization that is required by law~~
- 29 ~~and that is issued by any state agency for the purposes of operating a~~
- 30 ~~business in this state. “License” shall not include any water, health, safety~~
- 31 ~~or environmental permits which are issued for a particular facility, or any~~
- 32 ~~driver’s license issued pursuant to the motor vehicle drivers’ license act,~~
- 33 ~~and amendments thereto.~~
- 34 ~~—(l) “Municipality” has the meaning ascribed thereto in K.S.A. 75-~~
- 35 ~~1117, and amendments thereto.~~
- 36 ~~—(m) “Identification document” has the meaning ascribed thereto in~~
- 37 ~~K.S.A. 21-3830, and amendments thereto. As used in this act, “identi-~~
- 38 ~~fication document” shall not include:~~
- 39 ~~—(1) Driver’s licenses issued pursuant to the motor vehicle drivers’~~
- 40 ~~license act, and amendments thereto; and~~
- 41 ~~—(2) identification cards issued pursuant to K.S.A. 8-1324, and amend-~~
- 42 ~~ments thereto.~~
- 43 ~~—(n) “Knowingly employ an unauthorized alien” means the actions de-~~

1 ~~scribed in 8 U.S.C. 1324a. The term “knowingly” shall include actions~~  
2 ~~that are taken willfully and with actual knowledge. “Knowingly” shall not~~  
3 ~~include unintentional or accidental conduct.~~  
4 ~~— New Sec. 2. It is unlawful for a business entity to knowingly hire,~~  
5 ~~recruit or refer for a fee for employment in the state of Kansas or continue~~  
6 ~~to employ an unauthorized alien.~~  
7 ~~— New Sec. 3. (a) On and after July 1, 2008:~~  
8 ~~(1) All state agencies, departments, boards or commissions or any~~  
9 ~~municipality who is an employer shall enroll and actively participate in e-~~  
10 ~~verify;~~  
11 ~~(2) the department of commerce shall enter into a memorandum of~~  
12 ~~understanding with the United States department of homeland security~~  
13 ~~to utilize the systematic alien verification for entitlements program to~~  
14 ~~verify the employment authorization of any alien seeking the public ben-~~  
15 ~~efit of a referral from a department of commerce workforce center. No~~  
16 ~~individual who is an alien shall be granted the benefit of such a referral~~  
17 ~~unless and until the United States department of homeland security has~~  
18 ~~conclusively verified the employment authorization of such alien pursuant~~  
19 ~~to 8 U.S.C. 1373(c). No individual who is a United States citizen shall be~~  
20 ~~granted the benefit of such a referral unless and until the individual pro-~~  
21 ~~vides documentary evidence of such individual’s United States citizen-~~  
22 ~~ship, by providing a birth certificate showing birth in the United States,~~  
23 ~~a United States passport or a naturalization document issued by the fed-~~  
24 ~~eral government; and~~  
25 ~~(3) any employer who is found by the federal government to have~~  
26 ~~engaged in a pattern or practice of employment recruitment or referral~~  
27 ~~in violation of 8 U.S.C. 1324a(a)(1)(A) or 1324a(a)(2), as defined in any~~  
28 ~~applicable federal rules and regulations, shall be required to enroll in and~~  
29 ~~actively participate in e-verify.~~  
30 ~~(b) On and after July 1, 2009, as a condition for the award of any~~  
31 ~~state contract or grant to a business entity for which the value of em-~~  
32 ~~ployment, labor or personal services exceeds \$10,000, the business entity~~  
33 ~~shall provide documentation affirming its enrollment and participation in~~  
34 ~~e-verify.~~  
35 ~~(c) On July 1, 2010, the department of labor shall enter into a mem-~~  
36 ~~orandum of understanding with United States citizenship and immigra-~~  
37 ~~tion services to become an e-verify designated agent for all employers in~~  
38 ~~the state of Kansas. The department of labor shall use e-verify to verify~~  
39 ~~the employment authorization of all employees hired by employers in the~~  
40 ~~state of Kansas. An employer may elect to not use the department of~~  
41 ~~labor as its e-verify designated agent, and may do so in a form and manner~~  
42 ~~proscribed by the department of labor. In the event an employer elects~~  
43 ~~not to use the department of labor as its e-verify designated agent, then~~

1 ~~such employer must be enrolled in and actively participate in e-verify.~~  
2 ~~—(d) An employer participating in e-verify shall verify the employment~~  
3 ~~eligibility of every employee in the employer's hire whose employment~~  
4 ~~commences after the employer enrolls in e-verify.~~  
5 ~~—(e) Those state agencies, departments, boards, commissions and mu-~~  
6 ~~nicipalities required to enroll in and actively participate in e-verify pur-~~  
7 ~~suant to subsection (a) shall report on such entity's use of e-verify, in-~~  
8 ~~cluding the number of verification checks submitted, the number of~~  
9 ~~tentative nonconfirmations received and the number of such tentative~~  
10 ~~nonconfirmations that were resolved, to the state legislature on or before~~  
11 ~~January 15, 2010.~~  
12 ~~—(f) On and after July 1, 2010, the department of labor shall indemnify~~  
13 ~~any business entity, for which the department of labor is an e-verify des-~~  
14 ~~ignated agent, against any and all claims, lawsuits, judgments and costs,~~  
15 ~~including reasonable attorney fees and costs of defense, which are directly~~  
16 ~~related to such business entity not hiring an individual based on the results~~  
17 ~~of an e-verify employment authorization check conducted by the depart-~~  
18 ~~ment of labor. In lieu of indemnifying the business entity, the department~~  
19 ~~of labor may provide its own defense to such claims or lawsuits and as-~~  
20 ~~sume liability for all costs associated with the action and for any damages~~  
21 ~~awarded by the court.~~  
22 ~~—(g) The provisions of this section shall expire on July 1, 2010.~~  
23 ~~—New Sec. 4. (a) Any person who believes a business entity or em-~~  
24 ~~ployer has violated any provision of section 2 or 3, and amendments~~  
25 ~~thereto, may file a complaint with the attorney general. A complaint filed~~  
26 ~~with the attorney general pursuant to this section shall be in writing and~~  
27 ~~signed by the individual filing the complaint. The attorney general shall~~  
28 ~~review and may investigate the complaint. In investigating complaints for~~  
29 ~~a violation of section 2, and amendments thereto, the attorney general~~  
30 ~~shall verify the work authorization of the alleged unauthorized alien with~~  
31 ~~the federal government pursuant to 8 U.S.C. 1373(c). If, after an inves-~~  
32 ~~tigation the attorney general determines that a violation of this section~~  
33 ~~has occurred, the attorney general shall notify the United States immi-~~  
34 ~~gration and customs enforcement, and may notify the district or county~~  
35 ~~attorney in the county in which the alleged violation occurred.~~  
36 ~~—(b) The provisions of sections 2 and 3, and amendments thereto, shall~~  
37 ~~be enforced in the courts of the state of Kansas by the district or county~~  
38 ~~attorney in the county in which the alleged violation occurred, or by the~~  
39 ~~attorney general. In an action brought against a business entity under this~~  
40 ~~section either party may demand a trial by jury.~~  
41 ~~—(c) On a finding, beyond a reasonable doubt, of the first violation of~~  
42 ~~section 2 or 3, and amendments thereto, by a business entity the court~~  
43 ~~shall:~~

1 ~~—(1) Order the business entity to terminate the employment of all~~  
2 ~~unauthorized aliens employed by the business entity;~~  
3 ~~—(2) place the business entity on probation for a three year period.~~  
4 ~~During the probationary period, the business entity shall file a quarterly~~  
5 ~~report with the attorney general concerning each new individual the busi-~~  
6 ~~ness entity hires at the specific business location where the unauthorized~~  
7 ~~alien worked; and~~  
8 ~~—(3) order the business entity to file a sworn affidavit signed by the~~  
9 ~~business entity with the prosecuting attorney within three business days~~  
10 ~~after the order is issued under paragraph (1). The affidavit must include~~  
11 ~~a statement that the business entity:~~  
12 ~~—(A) Has terminated the employment of all unauthorized aliens; and~~  
13 ~~—(B) will not knowingly employ an unauthorized alien.~~  
14 ~~—If a business entity fails to file a sworn affidavit as required under~~  
15 ~~paragraph (3) with the prosecuting attorney within the required time~~  
16 ~~period, the court may order the appropriate agencies to suspend all li-~~  
17 ~~censes that are held by the business entity. All licenses suspended under~~  
18 ~~this subsection may remain suspended until the business entity files a~~  
19 ~~sworn affidavit as required under paragraph (3) with the prosecuting at-~~  
20 ~~torney. If, upon a hearing, the court finds a violation of any order issued~~  
21 ~~under this subsection, the court may find the business entity in contempt~~  
22 ~~pursuant to K.S.A. 20-1204a, and amendments thereto.~~  
23 ~~—(d) On a finding, beyond a reasonable doubt, of the second violation~~  
24 ~~of section 2 or 3, and amendments thereto, by a business entity the court~~  
25 ~~shall:~~  
26 ~~—(1) Order the business entity to terminate the employment of all~~  
27 ~~unauthorized aliens employed by the business entity;~~  
28 ~~—(2) place the business entity on probation for a five year period. Dur-~~  
29 ~~ing the probationary period, the business entity shall file a quarterly report~~  
30 ~~with the attorney general concerning each new individual the business~~  
31 ~~entity hires at the specific business location where the unauthorized alien~~  
32 ~~worked;~~  
33 ~~—(3) order the business entity to file a sworn affidavit signed by the~~  
34 ~~business entity with the prosecuting attorney within three business days~~  
35 ~~after the order is issued under paragraph (1). The affidavit must include~~  
36 ~~a statement that the business entity:~~  
37 ~~—(A) Has terminated the employment of all unauthorized aliens; and~~  
38 ~~—(B) will not knowingly employ an unauthorized alien; and~~  
39 ~~—(4) order the suspension of all licenses that are held by such business~~  
40 ~~entity for a period of not less than 10 days and not more than 30 days.~~  
41 ~~—If, upon a hearing, the court finds a violation of any order issued under~~  
42 ~~this subsection, the court may find the business entity in contempt pur-~~  
43 ~~suant to K.S.A. 20-1204a, and amendments thereto.~~

1 ~~—(c) On a finding of the third violation of section 2 or 3, and amend-~~  
2 ~~ments thereto, by a business entity, the court shall order the permanent~~  
3 ~~suspension of all licenses that are held by such business entity as well as~~  
4 ~~the revocation of the business entity's registration as a corporation in the~~  
5 ~~state of Kansas, if applicable.~~  
6 ~~—(f) In enforcing the provisions of sections 2 and 3, and amendments~~  
7 ~~thereto, no state, county or local official shall attempt to independently~~  
8 ~~determine whether an individual is an unauthorized alien or an alien not~~  
9 ~~lawfully present in the United States. Such determination shall only be~~  
10 ~~made by verifying the alien's immigration status with the federal govern-~~  
11 ~~ment, pursuant to 8 U.S.C. 1373(c).~~  
12 ~~—(g) For the purposes of this section, when making a determination of~~  
13 ~~whether an employee is an unauthorized alien, a court shall only consider~~  
14 ~~the federal government's determination pursuant to 8 U.S.C. 1373(c).~~  
15 ~~The court shall take judicial notice of any verification of the immigration~~  
16 ~~status previously provided by the federal government. The court may,~~  
17 ~~and at the request of a party, shall request the federal government to~~  
18 ~~provide, in automated, documentary or testimonial form, a new verifica-~~  
19 ~~tion of the immigration status of the employee pursuant to 8 U.S.C.~~  
20 ~~1373(c). The most recent determination of the immigration status of an~~  
21 ~~employee by the federal government shall create a rebuttable presump-~~  
22 ~~tion as to the employee's immigration status. The determination of any~~  
23 ~~person's employment authorization pursuant to 8 U.S.C. 1373(c) shall~~  
24 ~~accommodate any contest of a tentative nonconfirmation by the federal~~  
25 ~~government and no enforcement of sections 2 and 3 shall occur until the~~  
26 ~~federal government issues a final nonconfirmation of employment au-~~  
27 ~~thorization and any contest period provided by federal law has run. The~~  
28 ~~court may stay proceedings brought pursuant to this section until such~~  
29 ~~time as the data has been finally determined.~~  
30 ~~—(h) For the purposes of this section, a business entity that has com-~~  
31 ~~plied in good faith with sections 2 and 3, and amendments thereto,~~  
32 ~~through registration and participation in e-verify to confirm the employ-~~  
33 ~~ment authorization of any employee in question may not be found to have~~  
34 ~~violated section 2 or section 3, and amendments thereto, regardless of~~  
35 ~~whether such business entity is required to enroll and participate in e-~~  
36 ~~verify pursuant to section 3, and amendments thereto. It shall be a de-~~  
37 ~~fense to a civil action brought for wrongful failure to hire an individual~~  
38 ~~based on such individual's employment authorization status that the de-~~  
39 ~~fendant business entity has complied in good faith with sections 2 and 3,~~  
40 ~~and amendments thereto, through registration and participation in e-ver-~~  
41 ~~ify to confirm the employment authorization of the employee in question.~~  
42 ~~—(i) For purposes of this section, a business entity that has complied~~  
43 ~~in good faith with the requirements of 8 U.S.C. 1324a(b) shall have an~~

1 ~~affirmative defense that the business entity did not knowingly hire, recruit~~  
2 ~~or refer for a fee for employment in the state of Kansas or continue to~~  
3 ~~employ an unauthorized alien.~~  
4 ~~—(j) A person who files a complaint with the attorney general or a~~  
5 ~~prosecuting attorney under this section, knowing that such complaint is~~  
6 ~~false or frivolous, is guilty of a class B misdemeanor.~~  
7 ~~—New Sec. 5. (a) All state officials, agencies and personnel shall fully~~  
8 ~~comply with, and, to the full extent permitted by law, support the en-~~  
9 ~~forcement of federal law prohibiting the entry into, presence or residence~~  
10 ~~in the United States of aliens in violation of federal immigration law.~~  
11 ~~—(b) All state, county and city law enforcement officers shall inquire~~  
12 ~~into the citizenship and immigration status of any person arrested for a~~  
13 ~~violation of any state law or municipal ordinance, regardless of the per-~~  
14 ~~son's national origin, ethnicity or race, where such inquiry does not sig-~~  
15 ~~nificantly expand the duration of the detention. In all such cases where a~~  
16 ~~person indicates that such person is not a citizen or national of the United~~  
17 ~~States, the law enforcement agent shall verify with the federal govern-~~  
18 ~~ment whether the alien is lawfully or unlawfully present in the United~~  
19 ~~States, pursuant to 8 U.S.C. 1373(c). If the alien is verified to be unlaw-~~  
20 ~~fully present in the United States, the law enforcement officer shall co-~~  
21 ~~operate with any request by federal immigration authorities to detain the~~  
22 ~~alien or transfer the alien to the custody of the federal government.~~  
23 ~~—(c) Pursuant to 8 U.S.C. 1373 and 1644, no official, personnel or~~  
24 ~~agent of a city, county or state law enforcement agency may be prohibited~~  
25 ~~or in any way restricted from sending, receiving or maintaining, infor-~~  
26 ~~mation regarding the immigration status, lawful or unlawful, of any in-~~  
27 ~~dividual, or exchanging such information with any other federal, state or~~  
28 ~~local government entity. No city, county or state law enforcement agency~~  
29 ~~may by ordinance, resolution, official policy or informal policy, prevent~~  
30 ~~its officers from asking individuals their citizenship or immigration status.~~  
31 ~~—(d) Any law enforcement agency shall be deemed to be in violation~~  
32 ~~of this section if the attorney general determines that such a violation has~~  
33 ~~occurred. An agency found to be in violation of this section shall be denied~~  
34 ~~state funding until it can prove to the attorney general that it is in com-~~  
35 ~~pliance with this act.~~  
36 ~~—(e) The provisions of this section shall be part of and supplemental~~  
37 ~~to the Kansas code of criminal procedure.~~  
38 ~~—New Sec. 6. The attorney general shall as quickly as practicable enter~~  
39 ~~into a cooperative agreement with the United States department of home-~~  
40 ~~land security, pursuant to 8 U.S.C. 1357(g), to designate specific state law~~  
41 ~~enforcement officers as officers qualified to exercise the enforcement~~  
42 ~~powers of federal immigration officers in the United States. The attorney~~  
43 ~~general may negotiate the cooperative agreement or participate in its~~

1 ~~implementation in partnership with other state or local law enforcement~~  
2 ~~agencies.~~

3 [New Section 1. As used in this act:

4 [(a) “Employee” means any person allowed or permitted to  
5 work by an employer. For purposes of this act, the term “em-  
6 ployee” shall not include:

7 [(1) Any person hired before November 7, 1986, and who has  
8 been continuously employed by the same employer;

9 [(2) any person providing domestic services in a private house-  
10 hold that is sporadic, irregular or intermittent;

11 [(3) any person providing services for the employer as an in-  
12 dependent contractor; and

13 [(4) any person providing services for the employer, under a  
14 contract, subcontract or exchange entered into after November 6,  
15 1986.

16 [(b) “Employer” means any person employing any employee  
17 for hire.

18 [(c) “Employment” means the act of employing or state of be-  
19 ing employed, engaged or hired.

20 [(d) “E-verify” means the electronic verification of the work  
21 authorization program of the illegal immigration reform and im-  
22 migrant responsibility act of 1996, P.L. 104-208, division C, section  
23 403(a); 8 U.S.C. 1324a, and operated by the United States depart-  
24 ment of homeland security or a successor program established by  
25 the federal government.

26 [(e) “Knowingly” means actions that are taken willfully and  
27 with actual knowledge. Knowingly shall not include unintentional  
28 or accidental conduct.

29 [(f) “Social security number verification service” or “SSNVS”  
30 means the electronic verification of social security numbers op-  
31 erated by the United States social security administration.

32 [(g) “Unauthorized alien” means an alien who does not have  
33 the legal right or authorization under federal law to work in the  
34 United States, as defined by 8 U.S.C. 1324a(h)(3).

35 [New Sec. 2. (a) All employers shall verify the identity and em-  
36 ployment eligibility of all persons hired by completing and retain-  
37 ing pursuant to this section a federal employment eligibility veri-  
38 fication, Form I-9 for each employee.

39 [(b) Employers shall, to the extent not inconsistent with federal  
40 laws and regulations:

41 [(1) Ensure that each employee completes section 1 of the em-  
42 ployment eligibility verification, Form I-9 when the employee  
43 starts work;



- 1 [(2) review documents establishing each employee's identity  
2 and eligibility to work to ensure that they reasonably appear on  
3 their face:
- 4 [(A) To be genuine; and  
5 [(B) to relate to the individual presenting the documents;
- 6 [(3) complete section 2 of the federal employment eligibility  
7 verification, Form I-9;
- 8 [(4) complete section 3, if applicable, of the federal employ-  
9 ment eligibility verification, Form I-9;
- 10 [(5) retain the federal employment eligibility verification,  
11 Form I-9 for three years after the date the person began work or  
12 one year after the person's employment is terminated, whichever  
13 is later; and
- 14 [(6) make the federal employment eligibility verification, Form  
15 I-9 available for inspection by state or federal officials upon re-  
16 quest with 3 days notice.
- 17 [(c) The Kansas department of labor shall make the federal  
18 employment eligibility verification, Form I-9 available to all em-  
19 ployers at their request.
- 20 [(d) No action relating in any way to the employment of an  
21 unauthorized alien shall be brought by any person, city, county or  
22 state official against any employer who complies with the provi-  
23 sions of subsections (a) and (b) or participates in e-verify or utilizes  
24 SSNVS.
- 25 [(e) In the event that the federal employment eligibility veri-  
26 fication, Form I-9 is amended or replaced after the enactment of  
27 this section, an employer shall be considered in compliance with  
28 the provisions of subsections (a); and
- 29 [(b) if it completes and maintains the then current federal em-  
30 ployment eligibility form consistent with all relevant federal laws  
31 and regulations.
- 32 [New Sec. 3. (a) On and after July 1, 2009, all state agencies,  
33 departments, boards and commissions, counties or any municipal-  
34 ity who is an employer shall enroll and actively participate in e-  
35 verify for verification of employment status of all employees whose  
36 employment commences after July 1, 2009.
- 37 [(b) On and after July 1, 2009, the department of labor shall  
38 enter into a memorandum of understanding with United States  
39 citizenship and immigration services to become an e-verify desig-  
40 nated agent for all employers in the state of Kansas. The depart-  
41 ment of labor shall use e-verify to verify the employment status of  
42 all employees hired by employers on and after July 1, 2011 in the  
43 state of Kansas. An employer may elect to not use the department

1 of labor as its e-verify designated agent and may do so in a form  
2 and manner proscribed by the department of labor. In the event  
3 an employer elects not to use the department of labor as its e-verify  
4 designated agent, then such employer must be enrolled in and  
5 actively participate in e-verify on and after July 1, 2011.

6 [New Sec. 4. (a) It is unlawful for an employer to knowingly  
7 hire, recruit or refer for a fee for employment in the state of Kan-  
8 sas or continue to employ an unauthorized alien.

9 [(b) Any person who believes an employer has violated the pro-  
10 visions of subsection (a) may file a complaint with the attorney  
11 general. A complaint filed with the attorney general pursuant to  
12 this section shall be in writing and signed by the individual filing  
13 the complaint. The attorney general shall review and may refer  
14 such complaint to local law enforcement in the county in which  
15 the alleged violation occurred for investigation. A complaint which  
16 alleges a violation solely or primarily on the basis of national ori-  
17 gin, ethnicity or race shall be deemed invalid and shall not be in-  
18 vestigated and further prosecuted. In investigating a complaint for  
19 a violation of subsection (a) the attorney general or local law en-  
20 forcement shall verify the work authorization of the alleged unau-  
21 thorized alien with the federal government pursuant to 8 U.S.C.  
22 1373 (c). If during the course of the investigation, the employer or  
23 the employee whose status is in question, challenge a status deter-  
24 mination of the federal government, the attorney general and local  
25 law enforcement shall not pursue a complaint against the employer  
26 until a final status determination is made by the federal govern-  
27 ment or federal courts.

28 [(c) The provisions of subsection (a) shall be enforced in the  
29 courts of the state of Kansas by the district or county attorney in  
30 the county in which the alleged violation occurred, or by the at-  
31 torney general. In an action brought against an employer under  
32 this section the employer may demand a trial by jury. If during the  
33 course of the proceedings, the employer or the employee whose  
34 status is in question, challenge a status determination of the fed-  
35 eral government, the court shall stay such proceedings against the  
36 employer until a final status determination is made by the federal  
37 government or federal courts.

38 [(d) On a finding, beyond a reasonable doubt, of a violation of  
39 subsection (a) by an employer the court shall: (1) For a first  
40 violation:

41 [(A) Order the employer to terminate the employment of all  
42 unauthorized aliens;

43 [(B) order the employer to be subject to a three-year proba-

- 1    **tionary period;**  
2    **[(C) order the employer to file a signed sworn affidavit with**  
3    **the attorney general within three business days after the order is**  
4    **issued. The affidavit shall state that the employer will not know-**  
5    **ingly employ an unauthorized alien; or**  
6    **[(D) order the employer to attend employment verification**  
7    **and discrimination training provided by the Kansas department of**  
8    **labor.**  
9    **[(2) On a finding of a second violation or subsequent violation**  
10   **of this section the court:**  
11    **[(A) Shall order the employer to terminate the employment of**  
12    **all unauthorized aliens;**  
13    **[(B) may find the employer in violation of a valid court order**  
14    **and issue fines in accordance with Kansas law;**  
15    **[(C) shall order the employer to enroll and participate in e-**  
16    **verify; or**  
17    **[(D) shall direct the attorney general to notify the department**  
18    **of homeland security and the United States attorney for the district**  
19    **of Kansas of such court order.**  
20    **[New Sec. 5. (a) There is hereby created within the depart-**  
21    **ment of labor an employment verification training center.**  
22    **[(b) The employment verification training center shall:**  
23    **[(1) Conduct training sessions throughout the state to educate**  
24    **and inform employers of the requirements of state and federal**  
25    **laws regarding employment verification of employees as required**  
26    **by this act.**  
27    **[(2) Create and publish informative materials for distribution**  
28    **to all employers regarding state and federal laws requiring em-**  
29    **ployment verification of all employees as required by this act.**  
30    **[(3) Conduct training sessions throughout the state to educate**  
31    **and inform employers of state and federal laws prohibiting dis-**  
32    **crimination in the workplace.**  
33    **[(4) Create and publish informative materials for distribution**  
34    **to all employers regarding state and federal laws prohibiting dis-**  
35    **crimination in the workplace.**  
36    **[(5) Develop and conduct cultural exchange and assimilation**  
37    **programs in conjunction with other state agencies relating to the**  
38    **education and employment of immigrants. Such program shall be**  
39    **available to all employers in Kansas. The cultural exchange and**  
40    **assimilation program shall include materials on the following**  
41    **subjects:**  
42    **[(A) State and federal employment verification requirements**  
43    **and processes;**

- 1     **[(B) state, federal or private services available for the employer**  
2 **to verify the employment status of an employee;**  
3     **[(C) state and federal wage and hour requirements;**  
4     **[(D) state and federal discrimination laws;**  
5     **[(E) state and federal tax laws;**  
6     **[(F) state and federal governmental processes;**  
7     **[(G) state and federal resources available by which the em-**  
8 **ployer may legally fill their employment needs;**  
9     **[(H) state and federal misclassification laws;**  
10    **[(I) cultural differences and similarities that may assist the em-**  
11 **ployer to assist immigrant employees to assimilate into the Kansas**  
12 **workforce; and**  
13    **[(J) other training or educational programs the department of**  
14 **labor deems necessary for proper training.**  
15    **[(c) The department of labor may promulgate rules and regu-**  
16 **lations to implement the provisions of this section.**  
17    **[New Sec. 6. (a) Exploitation of an illegal alien is knowingly**  
18 **employing an illegal alien in violation of K.S.A. 21-4409, and**  
19 **amendments thereto, and subjecting them to working conditions**  
20 **in violation of the federal minimum wage or maximum hours law,**  
21 **K.S.A. 44-1202 et seq., and amendments thereto.**  
22    **[(b) Violation of this section is a severity level 8 nonperson**  
23 **felony.**  
24    **[(c) For purposes of this section, “illegal alien” means any per-**  
25 **son not a citizen of the United States:**  
26    **[(1) Who has entered the United States in violation of the fed-**  
27 **eral immigration and naturalization act or regulations issued**  
28 **thereunder;**  
29    **[(2) who has legally entered, but without the rights to be em-**  
30 **ployed in the United States; or**  
31    **[(3) who has legally entered subject to a time limit, but has**  
32 **remained illegally after the expiration of such time limit.**  
33    **[The term “illegal alien” shall not mean any person who cur-**  
34 **rently has the legal right to remain in the United States and to be**  
35 **employed in the United States even though such person originally**  
36 **entered the United States in violation of the federal immigration**  
37 **and naturalization act or regulations issued thereunder and is not**  
38 **a citizen of the United States.**  
39    **[New Sec. 7. No city organized under the laws of the state of**  
40 **Kansas may enact any ordinance or resolution which creates any**  
41 **additional requirements or authorizes any penalty not articulated**  
42 **in sections 1 through 7, and amendments thereto.]**  
43    **New Sec. ~~7~~ [8.] (a) No alien who is unlawfully present in the United**

1 States shall receive any state or local public benefit, except for state or  
2 local public benefits that are required to be offered by 8 U.S.C. 1621(b),  
3 or as provided in K.S.A. 2007 Supp. 76-731a, and amendments thereto.

4 (b) In addition to providing proof of other eligibility requirements,  
5 at the time of application for any state or local public benefit, an individual  
6 applicant who is 18 years of age or older shall provide affirmative proof  
7 that the individual applicant is a citizen or a permanent resident of the  
8 United States or is lawfully present in the United States. Such affirmative  
9 proof shall include documentary evidence recognized by the division of  
10 motor vehicles when processing an application for a driver's license, as  
11 established in K.S.A. 8-240, and amendments thereto, as well as any doc-  
12 ument issued by the federal government that confirms an alien's lawful  
13 presence in the United States.

14 (c) An individual applicant who cannot provide the proof required  
15 under this section at the time of application may alternatively sign an  
16 affidavit under oath, attesting to either United States citizenship or clas-  
17 sification by the United States as an alien lawfully admitted for permanent  
18 residence, in order to receive temporary benefits or temporary identifi-  
19 cation document as provided in this section. The affidavit shall include  
20 the individual applicant's social security number and an explanation of  
21 the penalties under state law for obtaining public assistance benefits  
22 fraudulently.

23 (d) An individual applicant who has provided the sworn affidavit re-  
24 quired under subsection (b) is eligible to receive temporary public ben-  
25 efits as follows:

26 (1) For 90 days or until such time that it is determined that the in-  
27 dividual applicant is not lawfully present in the United States, whichever  
28 is earlier; or

29 (2) indefinitely if the individual applicant provides a copy of a com-  
30 pleted application for a birth certificate that is pending in Kansas or some  
31 other state. An extension granted under this subsection shall terminate  
32 upon the individual applicant's receipt of a birth certificate or a deter-  
33 mination that a birth certificate does not exist because the individual  
34 applicant is not a United States citizen.

35 (e) An individual applicant who is an alien shall not receive any state  
36 or local public benefit unless the alien's lawful presence in the United  
37 States is first verified by the federal government, pursuant to 8 U.S.C.  
38 1373(c). **[For purposes of this section an applicant shall be eligible**  
39 **for benefits during periods of federal appeals of determination of**  
40 **eligibility status.]** State and local agencies administering public benefits  
41 in this state shall cooperate with the United States department of home-  
42 land security in achieving verification of aliens' lawful presence in the  
43 United States in furtherance of this section. The system utilized may

1 include the systematic alien verification for entitlements program oper-  
2 ated by the United States department of homeland security. **[For pur-**  
3 **poses of this section, if an individual is deemed ineligible upon**  
4 **verification by the federal government pursuant to 8 U.S.C.**  
5 **1373(c) a person retains their right to due process, including, but**  
6 **not limited to, challenging their determination of ineligibility in**  
7 **the federal courts.]**

8 (f) As used in this section, “public benefit” means: Any ~~grant, con-~~  
9 ~~tract, loan or commercial or professional license provided by an agency~~  
10 ~~of state or local government, or any~~ retirement, welfare, health, disability,  
11 housing, food assistance or unemployment benefit under which pay-  
12 ments, assistance, credits or reduced rates or fees are provided, except  
13 that in no event shall the term “public benefit” include any license issued  
14 by the department of wildlife and parks, or licenses and identification  
15 cards issued by the division of vehicles.

16 **[(g) The provisions of this section shall not apply to religious,**  
17 **educational, charitable or nonprofit organizations, organizations**  
18 **that provide services related to sexual or domestic violence, li-**  
19 **braries, medical providers or utilities.]**

20 ~~New Sec. 8. (a) Employment identity fraud is willfully presenting to~~  
21 ~~an employer false or misleading identification documents for the purpose~~  
22 ~~of obtaining employment in the state of Kansas.~~

23 ~~(b) Employment identity fraud is a severity level 8, nonperson felony.~~

24 ~~(c) This section shall be part of and supplemental to the Kansas crim-~~  
25 ~~inal code.~~

26 **[New Sec. 9. (a) No person shall knowingly and intentionally**  
27 **misclassify an employee as an independent contractor.**

28 **[(b) For the purposes of this section, services performed by an**  
29 **individual for wages or under any contract for hire shall be**  
30 **deemed to be employment unless and until it is shown that:**

31 **[(1) Such individual has been and will continue to be free from**  
32 **control or direction over the performance of such services, both**  
33 **under the individual’s contract of hire and in fact; and**

34 **[(2) such service is either outside the usual course of the busi-**  
35 **ness for which such service is performed or that such service is**  
36 **performed outside of all the places of business of the enterprise**  
37 **for which such service is performed.**

38 **[(c) The attorney general or any county or district attorney may**  
39 **investigate and if warranted prosecute all cases in which a violation**  
40 **of this section has occurred.**

41 **[(d) (1) A first violation of this section shall be a class A**  
42 **misdemeanor.**

43 **[(2) A second or subsequent violation of this section shall be a**

1 **level 8 nonperson felony.**

2 [(e) The terms used in this section shall have the meaning as-  
3 cribed thereto by the provisions of K.S.A. 44-703, and amendments  
4 thereto.

5 [(f) This section shall be part of and supplemental to the Kansas  
6 criminal code.]

7 ~~Sec. 9. — K.S.A. 2007 Supp. 8-240 is hereby amended to read as fol-  
8 lows: 8-240. (a) Every application for an instruction permit shall be made  
9 upon a form furnished by the division of vehicles and accompanied by a  
10 fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every  
11 other application shall be made upon a form furnished by the division  
12 and accompanied by an examination fee of \$3, unless a different fee is  
13 required by K.S.A. 8-241, and amendments thereto, and by the proper  
14 fee for the license for which the application is made. If the applicant is  
15 not required to take an examination the examination fee shall not be  
16 required. The examination shall consist of three tests, as follows: (1) Vi-  
17 sion; (2) written; and (3) driving. If the applicant fails the vision test, the  
18 applicant may have correction of vision made and take the vision test again  
19 without any additional fee. If an applicant fails the written test, the ap-  
20 plicant may take such test again upon the payment of an additional ex-  
21 amination fee of \$1.50. If an applicant fails the driving test, the applicant  
22 may take such test again upon the payment of an additional examination  
23 fee of \$1.50. If an applicant fails to pass all three of the tests within a  
24 period of six months from the date of original application and desires to  
25 take additional tests, the applicant shall file an application for reexami-  
26 nation upon a form furnished by the division, which shall be accompanied  
27 by a reexamination fee of \$3, except that any applicant who fails to pass  
28 the written or driving portion of an examination four times within a six-  
29 month period, shall be required to wait a period of six months from the  
30 date of the last failed examination before additional examinations may be  
31 given. Upon the filing of such application and the payment of such re-  
32 examination fee, the applicant shall be entitled to reexamination in like  
33 manner and subject to the additional fees and time limitation as provided  
34 for examination on an original application. If the applicant passes the  
35 reexamination, the applicant shall be issued the classified driver's license  
36 for which the applicant originally applied, which license shall be issued  
37 to expire as if the applicant had passed the original examination.~~

38 ~~—(b) (1) For the purposes of obtaining any driver's license or instruc-  
39 tion permit, an applicant shall submit, with the application, proof of age  
40 and proof of identity as the division may require. The applicant also shall  
41 provide a photo identity document, except that a non-photo identity docu-  
42 ment is acceptable if it includes both the applicant's full legal name and  
43 date of birth, and documentation showing the applicant's name, the ap-~~

1 ~~applicant's address of principal residence and the applicant's social security~~  
2 ~~number. The applicant's social security number shall remain confidential~~  
3 ~~and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,~~  
4 ~~and amendments thereto. If, after communication with the federal gov-~~  
5 ~~ernment, the social security number is determined to be incorrect or~~  
6 ~~fraudulent, the license or permit shall not be issued. If the license or permit~~  
7 ~~has already been issued, the license or permit shall be revoked. If the~~  
8 ~~applicant does not have a social security number the applicant shall pro-~~  
9 ~~vide proof of lawful presence and Kansas residency. The division shall~~  
10 ~~assign a distinguishing number to the license or permit.~~

11 ~~—(2)—The division shall not issue any driver's license or instruction per-~~  
12 ~~mit to any person who fails to provide proof that the person is lawfully~~  
13 ~~present in the United States. Before issuing a driver's license or instruc-~~  
14 ~~tion permit to a person, the division shall require valid documentary evi-~~  
15 ~~dence that the applicant: (A) Is a citizen or national of the United States;~~  
16 ~~(B) is an alien lawfully admitted for permanent or temporary residence~~  
17 ~~in the United States; (C) has conditional permanent resident status in the~~  
18 ~~United States; (D) has an approved application for asylum in the United~~  
19 ~~States or has entered into the United States in refugee status; (E) has a~~  
20 ~~valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry~~  
21 ~~into the United States; (F) has a pending application for asylum in the~~  
22 ~~United States; (G) has a pending or approved application for temporary~~  
23 ~~protected status in the United States; (H) has approved deferred action~~  
24 ~~status; or (I) has a pending application for adjustment of status to that of~~  
25 ~~an alien lawfully admitted for permanent residence in the United States~~  
26 ~~or conditional permanent resident status in the United States.~~

27 ~~—(3)—If an applicant provides evidence of lawful presence set out in~~  
28 ~~subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for~~  
29 ~~temporary residence under subsection (b)(2)(B), the division may only~~  
30 ~~issue a driver's license to the person under the following conditions: (A)~~  
31 ~~A driver's license issued pursuant to this subparagraph shall be valid only~~  
32 ~~during the period of time of the applicant's authorized stay in the United~~  
33 ~~States or, if there is no definite end to the period of authorized stay, a~~  
34 ~~period of one year; (B) a drivers' license issued pursuant to this subpar-~~  
35 ~~agraph shall clearly indicate that it is temporary and shall state the date~~  
36 ~~on which it expires; (C) no driver's license issued pursuant to this sub-~~  
37 ~~paragraph shall be for a longer period of time than the time period per-~~  
38 ~~mitted by subsection (a) of K.S.A. 8-247, and amendments thereto; and~~  
39 ~~(D) a driver's license issued pursuant to this subparagraph may be re-~~  
40 ~~newed, subject at the time of renewal, to the same requirements and~~  
41 ~~conditions as set out in this subsection (b) for the issuance of the original~~  
42 ~~driver's license.~~

43 ~~—(4)—The division shall not issue any driver's license or instruction per-~~



- 1 ~~mit to any person who is not a resident of the state of Kansas, except as~~  
2 ~~provided in K.S.A. 8-2,148, and amendments thereto.~~
- 3 ~~—(5) The division shall not issue a driver's license to a person holding~~  
4 ~~a driver's license issued by another state without making reasonable ef-~~  
5 ~~forts to confirm that the person is terminating or has terminated the~~  
6 ~~driver's license in the other state.~~
- 7 ~~—(6) The parent or guardian of an applicant under 16 years of age shall~~  
8 ~~sign the application for any driver's license submitted by such applicant.~~
- 9 ~~—(c) Every application shall state the full legal name, date of birth,~~  
10 ~~gender and address of principal residence of the applicant, and briefly~~  
11 ~~describe the applicant, and shall state whether the applicant has been~~  
12 ~~licensed as a driver prior to such application, and, if so, when and by what~~  
13 ~~state or country. Such application shall state whether any such license has~~  
14 ~~ever been suspended or revoked, or whether an application has ever been~~  
15 ~~refused, and, if so, the date of and reason for such suspension, revocation~~  
16 ~~or refusal. In addition, applications for commercial drivers' licenses and~~  
17 ~~instruction permits for commercial licenses must include the following:~~  
18 ~~The applicant's social security number, the person's signature, the per-~~  
19 ~~son's colored digital photograph, certifications, including those required~~  
20 ~~by 49 C.F.R. 383.71(a), effective January 1, 1991, a consent to release~~  
21 ~~driving record information, and, any other information required by the~~  
22 ~~division.~~
- 23 ~~—(d) When an application is received from a person previously licensed~~  
24 ~~in another jurisdiction, the division shall request a copy of the driver's~~  
25 ~~record from the other jurisdiction. When received, the driver's record~~  
26 ~~shall become a part of the driver's record in this state with the same force~~  
27 ~~and effect as though entered on the driver's record in this state in the~~  
28 ~~original instance.~~
- 29 ~~—(e) When the division receives a request for a driver's record from~~  
30 ~~another licensing jurisdiction the record shall be forwarded without~~  
31 ~~charge.~~
- 32 ~~—(f) A fee shall be charged as follows:~~
- 33 ~~—(1) For a class C driver's license issued to a person at least 21 years~~  
34 ~~of age, but less than 65 years of age, \$18;~~
- 35 ~~—(2) for a class C driver's license issued to a person 65 years of age or~~  
36 ~~older, \$12;~~
- 37 ~~—(3) for a class M driver's license issued to a person at least 21 years~~  
38 ~~of age, but less than 65 years of age, \$12.50;~~
- 39 ~~—(4) for a class M driver's license issued to a person 65 years of age or~~  
40 ~~older, \$9;~~
- 41 ~~—(5) for a class A or B driver's license issued to a person who is at least~~  
42 ~~21 years of age, but less than 65 years of age, \$24;~~
- 43 ~~—(6) for a class A or B driver's license issued to a person 65 years of~~

1 ~~age or older, \$16;~~  
2 ~~— (7) for any class of commercial driver's license issued to a person 21~~  
3 ~~years of age or older, \$18, or~~  
4 ~~— (8) for class A, B, C or M, or a farm permit, or any commercial driver's~~  
5 ~~license issued to a person less than 21 years of age, \$20.~~  
6 ~~— A fee of \$10 shall be charged for each commercial driver's license~~  
7 ~~endorsement, except air brake endorsements which shall have no charge.~~  
8 ~~— A fee of \$3 per year shall be charged for any renewal of a license issued~~  
9 ~~prior to the effective date of this act to a person less than 21 years of age.~~  
10 ~~— If one fails to make an original application or renewal application for a~~  
11 ~~driver's license within the time required by law, or fails to make appli-~~  
12 ~~cation within 60 days after becoming a resident of Kansas, a penalty of~~  
13 ~~\$1 shall be added to the fee charged for the driver's license.~~  
14 ~~— (g) Any person who possesses an identification card as provided in~~  
15 ~~K.S.A. 8-1324, and amendments thereto, shall surrender such identifi-~~  
16 ~~cation card to the division upon being issued a valid Kansas driver's license~~  
17 ~~or upon reinstatement and return of a valid Kansas driver's license.~~  
18 ~~— (h) The division shall require that any person applying for a driver's~~  
19 ~~license submit to a mandatory facial image capture.~~  
20 ~~— (i) The director of vehicles may issue a temporary driver's license to~~  
21 ~~an applicant who cannot provide valid documentary evidence as defined~~  
22 ~~by subsection (b)(2), if the applicant provides compelling evidence prov-~~  
23 ~~ing current lawful presence. Any temporary license issued pursuant to~~  
24 ~~this subsection shall be valid for one year.~~  
25 ~~— (j) No driver's license shall be issued to any alien until the alien has~~  
26 ~~been verified by the United States department of homeland security to be~~  
27 ~~lawfully present in the United States, pursuant to 8 U.S.C. 1373(c). Such~~  
28 ~~verification shall occur through the systematic alien verification for en-~~  
29 ~~tlements program operated by the United States department of home-~~  
30 ~~land security.~~  
31 ~~— Sec. 10. K.S.A. 2007 Supp. 8-1324 is hereby amended to read as~~  
32 ~~follows: 8-1324. (a) Any resident who does not hold a current valid Kansas~~  
33 ~~driver's license may make application to the division of vehicles and be~~  
34 ~~issued one identification card.~~  
35 ~~— (b) For the purpose of obtaining an identification card, an applicant~~  
36 ~~shall submit, with the application, proof of age, proof of identity and proof~~  
37 ~~of lawful presence. An applicant shall submit with the application a photo~~  
38 ~~identity document, except that a non-photo identity document is accept-~~  
39 ~~able if it includes both the applicant's full legal name and date of birth,~~  
40 ~~and documentation showing the applicant's name, the applicant's address~~  
41 ~~of principal residence and the applicant's social security account number.~~  
42 ~~If, after communication with the federal government, the social security~~  
43 ~~number is determined to be incorrect or fraudulent, the identification card~~

1 ~~shall not be issued. If the card has already been issued, the card shall be~~  
2 ~~revoked. The applicant's social security number shall remain confidential~~  
3 ~~and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,~~  
4 ~~and amendments thereto. If the applicant does not have a social security~~  
5 ~~number, the applicant shall provide proof of lawful presence and Kansas~~  
6 ~~residency. The division shall assign a distinguishing number to the iden-~~  
7 ~~tification card. Before issuing an identification card to a person, the di-~~  
8 ~~vision shall make reasonable efforts to verify with the issuing agency the~~  
9 ~~issuance, validity and completeness of each document required to be pre-~~  
10 ~~sented by the applicant to prove age, identity and lawful presence.~~  
11 ~~—(c)—The division shall not issue an identification card to any person~~  
12 ~~who fails to provide proof that the person is lawfully present in the United~~  
13 ~~States. If an applicant provides evidence of lawful presence as set out in~~  
14 ~~subsections (b)(2)(E) through (2)(I) of K.S.A. 8-240, and amendments~~  
15 ~~thereto, or is an alien lawfully admitted for temporary residence under~~  
16 ~~subsection (b)(2)(B) of K.S.A. 8-240, and amendments thereto, the divi-~~  
17 ~~sion may only issue a temporary identification card to the person under~~  
18 ~~the following conditions: (A) A temporary identification card issued pur-~~  
19 ~~suant to this subparagraph shall be valid only during the period of time~~  
20 ~~of the applicant's authorized stay in the United States or, if there is no~~  
21 ~~definite end to the period of authorized stay, a period of one year; (B) a~~  
22 ~~temporary identification card issued pursuant to this subparagraph shall~~  
23 ~~clearly indicate that it is temporary and shall state the date upon which~~  
24 ~~it expires; (C) no temporary identification card issued pursuant to this~~  
25 ~~subparagraph shall be for a longer period of time than the time period~~  
26 ~~permitted by K.S.A. 8-1325, and amendments thereto, and (D) a tem-~~  
27 ~~porary identification card issued pursuant to this subparagraph may be~~  
28 ~~renewed, subject at the time of renewal, to the same requirements and~~  
29 ~~conditions set forth in this subsection (c) for the issuance of the original~~  
30 ~~temporary identification card.~~  
31 ~~—(d)—The division shall not issue an identification card to any person~~  
32 ~~who holds a current valid Kansas driver's license unless such driver's li-~~  
33 ~~cence has been physically surrendered pursuant to the provisions of sub-~~  
34 ~~section (c) of K.S.A. 8-1002, and amendments thereto.~~  
35 ~~—(e)—The division shall refuse to issue an identification card to a person~~  
36 ~~holding a driver's license or identification card issued by another state~~  
37 ~~without confirmation that the person is terminating or has terminated the~~  
38 ~~license or identification card.~~  
39 ~~—(f)—The parent or guardian of an applicant under 16 years of age shall~~  
40 ~~sign the application for an identification card submitted by such applicant.~~  
41 ~~—(g)—The division shall require payment of a fee of \$14 at the time~~  
42 ~~application for an identification card is made, except that persons who~~  
43 ~~are 65 or more years of age or who are handicapped, as defined in K.S.A.~~

1 ~~§ 8-1,124, and amendments thereto, shall be required to pay a fee of only~~  
2 ~~§10.~~  
3 ~~—(h) All Kansas identification cards shall have physical security features~~  
4 ~~designed to prevent tampering, counterfeiting or duplication for fraud-~~  
5 ~~ulent purposes.~~  
6 ~~—(i) For the purposes of K.S.A. 8-1324 through 8-1328, and amend-~~  
7 ~~ments thereto, a person shall be deemed to be a resident of the state if:~~  
8 ~~—(1) The person owns, leases or rents a place of domicile in this state;~~  
9 ~~—(2) the person engages in a trade, business or profession in this state;~~  
10 ~~—(3) the person is registered to vote in this state;~~  
11 ~~—(4) the person enrolls the person's child in a school in this state, or~~  
12 ~~—(5) the person registers the person's motor vehicle in this state.~~  
13 ~~—(j) The division shall require that any person applying for an identi-~~  
14 ~~fication card submit to a mandatory facial image capture.~~  
15 ~~—(k) The director of vehicles may issue a temporary identification card~~  
16 ~~to an applicant who cannot provide valid documentary evidence as def-~~  
17 ~~ined by subsection (c), if the applicant provides compelling evidence~~  
18 ~~proving current lawful presence. Any temporary identification card issued~~  
19 ~~pursuant to this subparagraph shall be valid for one year.~~  
20 ~~—(l) Upon payment of the required fee, the division shall issue to every~~  
21 ~~applicant qualifying under the provisions of this act an identification card.~~  
22 ~~Such identification card shall bear a distinguishing number assigned to~~  
23 ~~the cardholder, the full legal name, date of birth, address of principal~~  
24 ~~residence, a brief description of the cardholder, a colored digital photo-~~  
25 ~~graph of the cardholder, and a facsimile of the signature of the cardholder.~~  
26 ~~An identification card which does not contain the address of principal~~  
27 ~~residence of the cardholder as required may be issued to persons who~~  
28 ~~are program participants pursuant to K.S.A. 2007 Supp. 75-455, and~~  
29 ~~amendments thereto.~~  
30 ~~—(m) No identification card shall be issued to any alien until the alien~~  
31 ~~has been verified by the United States department of homeland security~~  
32 ~~to be lawfully present in the United States, pursuant to 8 U.S.C. 1373(c).~~  
33 ~~Such verification shall occur through the systematic alien verification for~~  
34 ~~entitlements program operated by the United States department of home-~~  
35 ~~land security.~~  
36 ~~—Sec. 11. K.S.A. 21-3830 is hereby amended to read as follows: 21-~~  
37 ~~3830. (a) Dealing in false identification documents is reproducing, man-~~  
38 ~~ufacturing, selling or offering for sale any identification document which:~~  
39 ~~—(1) Simulates, purports to be or is designed so as to cause others~~  
40 ~~reasonably to believe it to be an identification document; and~~  
41 ~~—(2) bears a fictitious name or other false information.~~  
42 ~~—(b) As used in this section, "identification document" means any card,~~  
43 ~~certificate or document or banking instrument including, but not limited~~

1 ~~to, credit or debit card, which identifies or purports to identify the bearer~~  
2 ~~of such document, whether or not intended for use as identification, and~~  
3 ~~includes, but is not limited to, documents purporting to be drivers' li-~~  
4 ~~enses, nondrivers' identification cards, certified copies of birth, death,~~  
5 ~~marriage and divorce certificates, social security cards and employee iden-~~  
6 ~~tification cards.~~

7 ~~—(c) Dealing in false identification documents is a severity level 8 6,~~  
8 ~~nonperson felony.~~

9 ~~—(d) Vital records identity fraud related to birth, death, marriage and~~  
10 ~~divorce certificates is:~~

11 ~~—(1) Willfully and knowingly supplying false information intending that~~  
12 ~~the information be used to obtain a certified copy of a vital record;~~

13 ~~—(2) making, counterfeiting, altering, amending or mutilating any cer-~~  
14 ~~tified copy of a vital record;~~

15 ~~—(A) Without lawful authority; and~~

16 ~~—(B) with the intent to deceive; or~~

17 ~~—(3) willfully and knowingly obtaining, possessing, using, selling or fur-~~  
18 ~~nishing or attempting to obtain, possess or furnish to another for any~~  
19 ~~purpose of deception a certified copy of a vital record.~~

20 ~~—(e) Vital records identity fraud is a severity level 8 7, nonperson~~  
21 ~~felony.~~

22 ~~—(f) The prohibitions in subsections (a) and (b) do not apply to:~~

23 ~~—(1) A person less than 21 years of age who uses the identification~~  
24 ~~document of another person to acquire an alcoholic beverage, as defined~~  
25 ~~in K.S.A. 8-1509, and amendments thereto;~~

26 ~~—(2) a person less than 18 years of age who uses the identification~~  
27 ~~documents of another person to acquire:~~

28 ~~—(A) Cigarettes or tobacco products, as defined in K.S.A. 79-3301, and~~  
29 ~~amendments thereto;~~

30 ~~—(B) a periodical, videotape or other communication medium that con-~~  
31 ~~tains or depicts nudity;~~

32 ~~—(C) admittance to a performance, live or film, that prohibits the at-~~  
33 ~~tendance of the person based on age; or~~

34 ~~—(D) an item that is prohibited by law for use or consumption by such~~  
35 ~~person.~~

36 ~~—(g) This section shall be part of and supplemental to the Kansas crim-~~  
37 ~~inal code.~~

38 **[Sec. 10. K.S.A. 21-3830 is hereby amended to read as follows:**  
39 **21-3830. (a) Dealing in false identification documents is reproduc-**  
40 **ing, manufacturing, selling or offering for sale any identification**  
41 **document which:**

42 **[(1) Simulates, purports to be or is designed so as to cause oth-**  
43 **ers reasonably to believe it to be an identification document; and**

- 1     **[(2) bears a fictitious name or other false information.**
- 2     **[(b) As used in this section, "identification document" means**  
3 **any card, certificate or document or banking instrument including,**  
4 **but not limited to, credit or debit card, which identifies or purports**  
5 **to identify the bearer of such document, whether or not intended**  
6 **for use as identification, and includes, but is not limited to, docu-**  
7 **ments purporting to be drivers' licenses, nondrivers' identification**  
8 **cards, certified copies of birth, death, marriage and divorce cer-**  
9 **tificates, social security cards and employee identification cards or**  
10 *other document required for completion of the federal employment eli-*  
11 *gibility verification, form I-9.*
- 12     ~~**[(c) Dealing in false identification documents is a severity level 8,**~~  
13 ~~**nonperson felony. Except as provided further, dealing in false identifi-**~~  
14 ~~**cation documents is a severity level 8, nonperson felony. If the identifi-**~~  
15 ~~**cation documents in question are used by an illegal alien for the purposes**~~  
16 ~~**of obtaining employment, then dealing in false documents is a severity**~~  
17 ~~**level 5, nonperson felony.**~~
- 18     **[(d) Vital records identity fraud related to birth, death, mar-**  
19 **riage and divorce certificates is:**
- 20         **[(1) Willfully and knowingly supplying false information in-**  
21 **tending that the information be used to obtain a certified copy of**  
22 **a vital record;**
- 23         **[(2) making, counterfeiting, altering, amending or mutilating**  
24 **any certified copy of a vital record:**
- 25             **[(A) Without lawful authority; and**  
26             **[(B) with the intent to deceive; or**  
27         **[(3) willfully and knowingly obtaining, possessing, using, sell-**  
28 **ing or furnishing or attempting to obtain, possess or furnish to**  
29 **another for any purpose of deception a certified copy of a vital**  
30 **record.**
- 31     **[(e) Vital records identity fraud is a severity level 8, nonperson**  
32 **felony.**
- 33     **[(f) The prohibitions in subsections (a) and (b) do not apply to:**
- 34         **[(1) A person less than 21 years of age who uses the identifi-**  
35 **cation document of another person to acquire an alcoholic bev-**  
36 **erage, as defined in K.S.A. 8-1599, and amendments thereto;**
- 37         **[(2) a person less than 18 years of age who uses the identifi-**  
38 **cation documents of another person to acquire:**
- 39             **[(A) Cigarettes or tobacco products, as defined in K.S.A. 79-**  
40 **3301, and amendments thereto;**
- 41             **[(B) a periodical, videotape or other communication medium**  
42 **that contains or depicts nudity;**
- 43             **[(C) admittance to a performance, live or film, that prohibits**

1 **the attendance of the person based on age; or**  
2 **[(D) an item that is prohibited by law for use or consumption**  
3 **by such person.**

4 [(g) *For purposes of this section, "illegal alien" means any person not*  
5 *a citizen of the United States:*

6 [(A) *Who has entered the United States in violation of the federal*  
7 *immigration and naturalization act or regulations issued thereunder;*

8 [(B) *who has legally entered, but without the rights to be employed*  
9 *in the United States; or*

10 [(C) *who has legally entered subject to a time limit, but has remained*  
11 *illegally after the expiration of such time limit.*

12 [*The term "illegal alien" shall not mean any person who currently has*  
13 *the legal right to remain in the United States and to be employed in the*  
14 *United States even though such person originally entered the United*  
15 *States in violation of the federal immigration and naturalization act or*  
16 *regulations issued thereunder and is not a citizen of the United States.*

17 [~~(g)~~ (h) **This section shall be part of and supplemental to the**  
18 **Kansas criminal code.]**

19 Sec. ~~12~~ [11.] K.S.A. 22-2802 is hereby amended to read as follows:  
20 22-2802. (1) Any person charged with a crime shall, at the person's first  
21 appearance before a magistrate, be ordered released pending preliminary  
22 examination or trial upon the execution of an appearance bond in an  
23 amount specified by the magistrate and sufficient to assure the appear-  
24 ance of such person before the magistrate when ordered and to assure  
25 the public safety. *If the person charged with a crime is not a citizen or*  
26 *national of the United States, such person's immigration status shall be*  
27 *verified with the federal government pursuant to 8 U.S.C. 1373(c). For*  
28 *the purposes of determining the grant of or issuance of an appearance*  
29 *bond, it shall be a rebuttable presumption that a person who has been*  
30 *verified by the federal government to be an alien unlawfully present in*  
31 *the United States is at risk of flight.* If the person is being bound over for  
32 a felony, the bond shall also be conditioned on the person's appearance  
33 in the district court or by way of a two-way electronic audio-video com-  
34 munication as provided in subsection (14) at the time required by the  
35 court to answer the charge against such person and at any time thereafter  
36 that the court requires. Unless the magistrate makes a specific finding  
37 otherwise, if the person is being bonded out for a person felony or a  
38 person misdemeanor, the bond shall be conditioned on the person being  
39 prohibited from having any contact with the alleged victim of such offense  
40 for a period of at least 72 hours. The magistrate may impose such of the  
41 following additional conditions of release as will reasonably assure the  
42 appearance of the person for preliminary examination or trial:

43 (a) Place the person in the custody of a designated person or organ-

- 1 ization agreeing to supervise such person;
- 2 (b) place restrictions on the travel, association or place of abode of
- 3 the person during the period of release;
- 4 (c) impose any other condition deemed reasonably necessary to as-
- 5 sure appearance as required, including a condition requiring that the
- 6 person return to custody during specified hours;
- 7 (d) place the person under a house arrest program pursuant to K.S.A.
- 8 21-4603b, and amendments thereto; or
- 9 (e) place the person under the supervision of a court services officer
- 10 responsible for monitoring the person's compliance with any conditions
- 11 of release ordered by the magistrate.
- 12 (2) In addition to any conditions of release provided in subsection (1),
- 13 for any person charged with a felony, the magistrate may order such
- 14 person to submit to a drug abuse examination and evaluation in a public
- 15 or private treatment facility or state institution and, if determined by the
- 16 head of such facility or institution that such person is a drug abuser or
- 17 incapacitated by drugs, to submit to treatment for such drug abuse, as a
- 18 condition of release.
- 19 (3) The appearance bond shall be executed with sufficient solvent
- 20 sureties who are residents of the state of Kansas, unless the magistrate
- 21 determines, in the exercise of such magistrate's discretion, that requiring
- 22 sureties is not necessary to assure the appearance of the person at the
- 23 time ordered.
- 24 (4) A deposit of cash in the amount of the bond may be made in lieu
- 25 of the execution of the bond pursuant to paragraph (3). Except as pro-
- 26 vided in paragraph (5), such deposit shall be in the full amount of the
- 27 bond and in no event shall a deposit of cash in less than the full amount
- 28 of bond be permitted. Any person charged with a crime who is released
- 29 on a cash bond shall be entitled to a refund of all moneys paid for the
- 30 cash bond, after deduction of any outstanding restitution, costs, fines and
- 31 fees, after the final disposition of the criminal case if the person complies
- 32 with all requirements to appear in court. The court may not exclude the
- 33 option of posting bond pursuant to paragraph (3).
- 34 (5) Except as provided further, the amount of the appearance bond
- 35 shall be the same whether executed as described in subsection (3) or
- 36 posted with a deposit of cash as described in subsection (4). When the
- 37 appearance bond has been set at \$2,500 or less and the most serious
- 38 charge against the person is a misdemeanor, a severity level 8, 9 or 10
- 39 nonperson felony, a drug severity level 4 felony or a violation of K.S.A.
- 40 8-1567, and amendments thereto, the magistrate may allow the person
- 41 to deposit cash with the clerk in the amount of 10% of the bond, provided
- 42 the person meets at least the following qualifications:
- 43 (A) Is a resident of the state of Kansas;



- 1 (B) has a criminal history score category of G, H or I;  
2 (C) has no prior history of failure to appear for any court appearances;  
3 (D) has no detainer or hold from any other jurisdiction;  
4 (E) has not been extradited from, and is not awaiting extradition to,  
5 another state; and  
6 (F) has not been detained for an alleged violation of probation.  
7 (6) In the discretion of the court, a person charged with a crime may  
8 be released upon the person's own recognizance by guaranteeing pay-  
9 ment of the amount of the bond for the person's failure to comply with  
10 all requirements to appear in court. The release of a person charged with  
11 a crime upon the person's own recognizance shall not require the deposit  
12 of any cash by the person.  
13 (7) The court shall not impose any administrative fee.  
14 (8) In determining which conditions of release will reasonably assure  
15 appearance and the public safety, the magistrate shall, on the basis of  
16 available information, take into account the nature and circumstances of  
17 the crime charged; the weight of the evidence against the defendant; the  
18 defendant's family ties, employment, financial resources, character, men-  
19 tal condition, length of residence in the community, record of convictions,  
20 record of appearance or failure to appear at court proceedings or of flight  
21 to avoid prosecution; the likelihood or propensity of the defendant to  
22 commit crimes while on release, including whether the defendant will be  
23 likely to threaten, harass or cause injury to the victim of the crime or any  
24 witnesses thereto; and whether the defendant is on probation or parole  
25 from a previous offense at the time of the alleged commission of the  
26 subsequent offense.  
27 (9) The appearance bond shall set forth all of the conditions of  
28 release.  
29 (10) A person for whom conditions of release are imposed and who  
30 continues to be detained as a result of the person's inability to meet the  
31 conditions of release shall be entitled, upon application, to have the con-  
32 ditions reviewed without unnecessary delay by the magistrate who im-  
33 posed them. If the magistrate who imposed conditions of release is not  
34 available, any other magistrate in the county may review such conditions.  
35 (11) A magistrate ordering the release of a person on any conditions  
36 specified in this section may at any time amend the order to impose  
37 additional or different conditions of release. If the imposition of additional  
38 or different conditions results in the detention of the person, the provi-  
39 sions of subsection (10) shall apply.  
40 (12) Statements or information offered in determining the conditions  
41 of release need not conform to the rules of evidence. No statement or  
42 admission of the defendant made at such a proceeding shall be received  
43 as evidence in any subsequent proceeding against the defendant.

1 (13) The appearance bond and any security required as a condition  
2 of the defendant's release shall be deposited in the office of the magistrate  
3 or the clerk of the court where the release is ordered. If the defendant  
4 is bound to appear before a magistrate or court other than the one or-  
5 dering the release, the order of release, together with the bond and se-  
6 curity shall be transmitted to the magistrate or clerk of the court before  
7 whom the defendant is bound to appear.

8 (14) Proceedings before a magistrate as provided in this section to  
9 determine the release conditions of a person charged with a crime in-  
10 cluding release upon execution of an appearance bond may be conducted  
11 by two-way electronic audio-video communication between the defend-  
12 ant and the judge in lieu of personal presence of the defendant or de-  
13 fendant's counsel in the courtroom in the discretion of the court. The  
14 defendant may be accompanied by the defendant's counsel. The defend-  
15 ant shall be informed of the defendant's right to be personally present in  
16 the courtroom during such proceeding if the defendant so requests. Ex-  
17 ercising the right to be present shall in no way prejudice the defendant.

18 (15) The magistrate may order the person to pay for any costs asso-  
19 ciated with the supervision of the conditions of release of the appearance  
20 bond in an amount not to exceed \$10 per week of such supervision.

21 Sec. ~~12.~~ **[12.]** K.S.A. 25-2416 is hereby amended to read as follows:  
22 25-2416. (a) Voting without being qualified is knowingly and willfully: ~~(a)~~  
23 (1) Voting or attempting to vote at any election when not a lawfully reg-  
24 istered voter.

25 ~~(b)~~ (2) Voting or offering to vote more than once at the same election.

26 ~~(c)~~ (3) Inducing or aiding any person to vote more than once at the  
27 same election.

28 (4) *Inducing or aiding any person [who is not a United States cit-*  
29 *izen] to vote who is not a lawfully registered voter.*

30 (b) Voting without being qualified *pursuant to subsection (2) or (3)*  
31 *is a class A misdemeanor. Voting without being qualified pursuant to*  
32 *subsection (1) or (4) is a severity level 9, nonperson felony.*

33 **[(c) Any person using this section to knowingly attempt to pre-**  
34 **vent or deter a legal citizen from voting or registering to vote**  
35 **based on fraudulent, deceptive or spurious grounds or information**  
36 **shall constitute illegal voter suppression and will constitute a se-**  
37 **verity level 9, nonperson felony.]**

38 **[(d) This section shall not apply to county election office per-**  
39 **sonnel or election board workers performing official duties pre-**  
40 **scribed by law that result in unknowing and unintended violations**  
41 **of this section.]**

42 **[Sec. 13. K.S.A. 2007 Supp. 44-766 is hereby amended to read**  
43 **as follows: 44-766. (a) No person shall knowingly and intentionally**

1 **misclassify an employee as an independent contractor for the sole**  
2 **or primary purpose of avoiding either state income tax withholding**  
3 **and reporting requirements or state unemployment insurance**  
4 **contributions reporting requirements.**

5 **[(b) Any person violating subsection (a) shall be subject to a**  
6 **penalty pursuant to K.S.A. 79-3228, and amendments thereto.**

7 *[(c) The provisions of this section shall not apply to misclassification*  
8 *of an employee who is an unauthorized alien, as defined in section 1, and*  
9 *amendments thereto.]*

10 ~~New Sec. 14. This act shall be construed so as to be fully consistent~~  
11 ~~with federal immigration and labor laws.~~

12 New Sec. ~~15.~~ **[14.]** This act shall not be construed to require an  
13 employer to take any action that the employer believes in good faith would  
14 violate federal or state law.

15 New Sec. ~~16.~~ **[15.]** If any section, subsection, paragraph or provision  
16 of this act shall be held to be invalid by any court for any reason, it shall  
17 be presumed that this act would have been passed by the legislature  
18 without such invalid section, subsection, paragraph or provision, and such  
19 finding or construction shall not in any way affect the remainder of this  
20 act.

21 Sec. ~~17.~~ **[16.]** K.S.A. 21-3830, 22-2802 and 25-2416 ~~and K.S.A. 2007~~  
22 ~~Supp. 8-240 and 8-1324~~, **8-1324 and 44-766** are hereby repealed.

23 Sec. ~~18.~~ **[17.]** This act shall take effect and be in force from and after  
24 its publication in the statute book.