

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0055.01 Michael Dohr

HOUSE BILL 06-1101

HOUSE SPONSORSHIP

Crane,

SENATE SPONSORSHIP

(None),

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ILLEGAL ALIENS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits a public contract for services from being awarded to a contractor who knowingly employs an illegal alien to perform work under the contract or who contracts with a subcontractor who knowingly employs an illegal alien to perform work under the contract. Prior to executing a public contract for services, requires each prospective contractor to provide documentation to the contracting state agency or political subdivision that proves that it does not employ an illegal alien.

Requires each public contract for services to include a provision prohibiting an illegal alien from performing work under the contract.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Establishes penalties for a breach of this contractual provision.

Requires each board that licenses a profession or occupation to promulgate rules requiring that a state-issued license be revoked if the licensee knowingly employs an illegal alien.

Requires a peace officer, after making an arrest, to perform an immigration status check on the arrestee. If the check determines that the arrestee is an illegal alien, compels the peace officer to report the arrestee to the United States bureau of immigration and customs enforcement, the department of labor and employment ("department"), and the employer. Requires the employer to provide the employee's alleged citizenship documentation to the department. Directs the department to determine whether the employer was reasonably justified in relying upon the documentation. If the department determines the justification was unreasonable, directs the department to determine if the employer has a contract with the state or is licensed by the state. If the employer either has a contract with the state or is licensed by the state, directs the department to notify the state entity that is party to the contract or licenses the employer. Requires the state entity to take action against the employer.

Requires the judicial department to prepare a report to the house and senate judiciary committees related to each defendant appearing in a Colorado criminal court that includes each defendant's sex, age, alien status, employer, gang affiliation, if any, nationality, marital status, previous criminal history, if any, and crime charged.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 8, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 17.5**

5 **Illegal Aliens - Public Service Contracts**

6 **8-17.5-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "CONTRACTOR" MEANS A PERSON HAVING A PUBLIC CONTRACT
9 FOR SERVICES WITH A STATE AGENCY OR POLITICAL SUBDIVISION OF THE
10 STATE.

11 (2) "POLITICAL SUBDIVISION" MEANS ANY CITY, COUNTY, CITY AND

1 COUNTY, TOWN, SPECIAL DISTRICT, SCHOOL DISTRICT, LOCAL
2 IMPROVEMENT DISTRICT, OR ANY OTHER KIND OF MUNICIPAL,
3 QUASI-MUNICIPAL, OR PUBLIC CORPORATION.

4 (3) "PUBLIC CONTRACT FOR SERVICES" MEANS ANY TYPE OF
5 AGREEMENT, REGARDLESS OF WHAT THE AGREEMENT MAY BE CALLED,
6 BETWEEN A STATE AGENCY OR POLITICAL SUBDIVISION AND A
7 CONTRACTOR FOR THE PROCUREMENT OF SERVICES.

8 (4) "SERVICES" MEANS THE FURNISHING OF LABOR, TIME, OR
9 EFFORT BY A CONTRACTOR OR A SUBCONTRACTOR NOT INVOLVING THE
10 DELIVERY OF A SPECIFIC END PRODUCT OTHER THAN REPORTS, IN SOME
11 CASES, THAT ARE MERELY INCIDENTAL TO THE REQUIRED PERFORMANCE.

12 (5) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION,
13 COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER
14 EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE,
15 LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

16 (6) "SUBCONTRACTOR" MEANS ANY PERSON OTHER THAN THE
17 CONTRACTOR WHO PERFORMS WORK UNDER A PUBLIC CONTRACT FOR
18 SERVICES ON BEHALF OF THE CONTRACTOR.

19 **8-17.5-102. Illegal aliens - prohibition - public contracts for**
20 **services.** (1) A STATE AGENCY OR POLITICAL SUBDIVISION SHALL NOT
21 ENTER INTO OR RENEW A PUBLIC CONTRACT FOR SERVICES WITH A
22 CONTRACTOR WHO KNOWINGLY EMPLOYS AN ILLEGAL ALIEN TO PERFORM
23 WORK UNDER THE CONTRACT OR WHO CONTRACTS WITH A
24 SUBCONTRACTOR WHO KNOWINGLY EMPLOYS AN ILLEGAL ALIEN TO
25 PERFORM WORK UNDER THE CONTRACT. PRIOR TO EXECUTING A PUBLIC
26 CONTRACT FOR SERVICES, EACH PROSPECTIVE CONTRACTOR SHALL
27 PROVIDE DOCUMENTATION TO THE STATE AGENCY OR POLITICAL

1 SUBDIVISION VERIFYING THAT IT IS NOT CURRENTLY EMPLOYING AN
2 ILLEGAL ALIEN.

3 (2) EACH PUBLIC CONTRACT FOR SERVICES SHALL INCLUDE A
4 PROVISION THAT THE CONTRACTOR SHALL NOT:

5 (a) KNOWINGLY EMPLOY AN ILLEGAL ALIEN TO PERFORM WORK
6 UNDER THE PUBLIC CONTRACT FOR SERVICES; OR

7 (b) ENTER INTO A CONTRACT WITH A SUBCONTRACTOR THAT
8 KNOWINGLY EMPLOYS AN ILLEGAL ALIEN TO PERFORM WORK UNDER THE
9 PUBLIC CONTRACT FOR SERVICES.

10 (3) IF A CONTRACTOR VIOLATES THE PROVISION OF THE PUBLIC
11 CONTRACT FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
12 SECTION, THE STATE AGENCY OR POLITICAL SUBDIVISION MAY TERMINATE
13 THE CONTRACT FOR A BREACH OF THE CONTRACT. IF THE CONTRACT IS SO
14 TERMINATED, THE CONTRACTOR SHALL BE LIABLE FOR ACTUAL AND
15 CONSEQUENTIAL DAMAGES TO THE STATE AGENCY OR POLITICAL
16 SUBDIVISION. REGARDLESS OF WHETHER THE CONTRACT IS TERMINATED,
17 THE CONTRACTOR SHALL BE INELIGIBLE TO RECEIVE A PUBLIC CONTRACT
18 FOR SERVICES FOR A PERIOD OF TEN YEARS AFTER THE DATE THAT THE
19 BREACH WAS DISCOVERED.

20 **SECTION 2.** Article 1.5 of title 12, Colorado Revised Statutes,
21 is amended BY THE ADDITION OF A NEW SECTION to read:

22 **12-1.5-102. Rules related to license revocation for employing**
23 **a person who is an illegal alien.** BY JANUARY 15, 2007, EACH BOARD
24 THAT LICENSES A PROFESSION OR OCCUPATION IN THIS TITLE SHALL
25 PROMULGATE RULES THAT REQUIRE THE LICENSE TO BE REVOKED FOR TEN
26 YEARS IF THE LICENSEE IS FOUND TO BE KNOWINGLY EMPLOYING AN
27 ILLEGAL ALIEN.

1 **SECTION 3.** Part 1 of article 3 of title 16, Colorado Revised
2 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
3 read:

4 **16-3-111. Immigration status check - report to the general**
5 **assembly - legislative declaration.** (1) (a) THE GENERAL ASSEMBLY
6 HEREBY FINDS, DETERMINES, AND DECLARES THAT ILLEGAL ALIENS
7 CREATE A SIGNIFICANT BURDEN ON THE STATE'S STRAINED CRIMINAL
8 JUSTICE RESOURCES.

9 (b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS
10 NECESSARY TO KNOW THE EXTENT OF THE BURDEN ON THE STATE'S
11 CRIMINAL JUSTICE RESOURCES, AND THIS INFORMATION IS A MATTER OF
12 STATEWIDE CONCERN.

13 (2) (a) AFTER A PEACE OFFICER MAKES AN ARREST, A PEACE
14 OFFICER SHALL CHECK THE ARRESTEE'S IMMIGRATION STATUS WHILE
15 PERFORMING OTHER COMPUTER-BASED BACKGROUND CHECKS OF THE
16 ARRESTEE. IF THE IMMIGRATION STATUS CHECK REVEALS THAT THE
17 ARRESTEE IS NOT LEGALLY PRESENT IN THE UNITED STATES, THE PEACE
18 OFFICER SHALL NOTIFY THE UNITED STATES BUREAU OF IMMIGRATION
19 AND CUSTOMS ENFORCEMENT, THE DEPARTMENT OF LABOR AND
20 EMPLOYMENT, AND THE ARRESTEE'S EMPLOYER. WHEN INFORMING THE
21 EMPLOYER, THE PEACE OFFICER SHALL NOTIFY THE EMPLOYER THAT THE
22 EMPLOYER IS REQUIRED TO PROVIDE THE DEPARTMENT OF LABOR AND
23 EMPLOYMENT WITH THE CITIZENSHIP DOCUMENTATION THE EMPLOYER
24 RELIED UPON IN HIRING THE EMPLOYEE.

25 (b) AN EMPLOYER WHO IS INFORMED THAT AN EMPLOYEE WAS
26 IDENTIFIED AS NOT LEGALLY PRESENT IN THE UNITED STATES PURSUANT
27 TO PARAGRAPH (a) OF THIS SUBSECTION (2), SHALL PROVIDE THE

1 DEPARTMENT OF LABOR AND EMPLOYMENT WITH THE CITIZENSHIP
2 DOCUMENTATION THE EMPLOYER RELIED UPON IN HIRING THE EMPLOYEE.
3 UPON RECEIPT OF THE INFORMATION, THE DEPARTMENT OF LABOR AND
4 EMPLOYMENT SHALL DETERMINE WHETHER THE EMPLOYER WAS
5 REASONABLY JUSTIFIED IN RELYING UPON THE SUPPLIED DOCUMENTATION.
6 IF THE DEPARTMENT OF LABOR AND EMPLOYMENT DETERMINES THE
7 EMPLOYER WAS NOT REASONABLY JUSTIFIED IN RELYING UPON THE
8 SUPPLIED DOCUMENTATION, THE DEPARTMENT OF LABOR AND
9 EMPLOYMENT SHALL DETERMINE WHETHER THE EMPLOYER HAS A
10 CONTRACT WITH THE STATE OR IF THE EMPLOYER IS LICENSED BY THE
11 STATE. IF THE DEPARTMENT OF LABOR AND EMPLOYMENT DETERMINES
12 THE EMPLOYER EITHER HAS A CONTRACT WITH THE STATE OR IS LICENSED
13 BY THE STATE, THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL
14 NOTIFY THE STATE ENTITY THAT EITHER HAS THE CONTRACT WITH THE
15 EMPLOYER OR HAS LICENSED THE EMPLOYER. THE STATE ENTITY SHALL
16 TAKE APPROPRIATE ACTION AGAINST THE EMPLOYER AS PROVIDED IN
17 SECTION 8-17.5-102, C.R.S., AND SECTION 12-1.5-102, C.R.S.

18 (3) THE JUDICIAL DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT
19 TO THE HOUSE AND SENATE JUDICIARY COMMITTEES, OR ANY SUCCESSOR
20 COMMITTEES, REGARDING EACH DEFENDANT THAT APPEARS IN A
21 COLORADO CRIMINAL COURT DURING THE PRECEDING YEAR. THE REPORT
22 SHALL INCLUDE THE SEX, AGE, ALIEN STATUS, EMPLOYER, ANY GANG
23 AFFILIATION, NATIONALITY, MARITAL STATUS, ANY PREVIOUS CRIMINAL
24 HISTORY, AND THE CRIME CHARGED FOR EACH PERSON APPEARING IN A
25 COLORADO CRIMINAL COURT AS A DEFENDANT. THE REPORT SHALL ALSO
26 INCLUDE A COMPARATIVE CATEGORICAL SUMMARY OF THE INFORMATION
27 PROVIDED IN THE REPORT. THE JUDICIAL DEPARTMENT SHALL SUBMIT THE

1 REPORT ON OR BEFORE JANUARY 15, 2007, AND ON OR BEFORE JANUARY
2 15 EACH YEAR THEREAFTER.

3 **SECTION 4. Effective date.** This act shall take effect at 12:01
4 a.m. on the day following the expiration of the ninety-day period after
5 final adjournment of the general assembly that is allowed for submitting
6 a referendum petition pursuant to article V, section 1 (3) of the state
7 constitution (August 9, 2006, if adjournment sine die is on May 10,
8 2006); except that, if a referendum petition is filed against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part, if approved by the people, shall take effect on the date of
11 the official declaration of the vote thereon by proclamation of the
12 governor.