



Ohio Legislative Service Commission

Bill Analysis

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H.B. 580

129th General Assembly
(As Introduced)

Reps. Combs and Lynch, Beck, Goodwin, J. Adams, Ruhl

BILL SUMMARY

- Generally requires a peace officer, when practicable, to make a reasonable attempt to determine an individual's immigration status if:
 - The individual is lawfully stopped, detained, or arrested; and
 - The peace officer has a reasonable suspicion that the individual is an alien who is unlawfully present in the United States.
- Requires the designated official of every entity that operates a jail or place of custody in this state to determine the immigration status of each individual arrested on or after the bill's effective date prior to the individual's release.

CONTENT AND OPERATION

Determination of the immigration status of stopped, detained, and arrested persons

The bill requires a peace officer to make a reasonable attempt, when practicable, to determine an individual's immigration status if:

(1) The individual is lawfully stopped, detained, or arrested an individual in the enforcement of any law or ordinance of Ohio or a political subdivision of Ohio; and

(2) The peace officer has a reasonable suspicion that the individual is an alien who is unlawfully present in the United States.¹

¹ R.C. 2935.034(B).

The determination of immigration status is not to be made if it may hinder or obstruct an investigation. Additionally, the bill also prohibits the peace officer from considering the individual's race, color, or national origin in determining whether reasonable suspicion exists.²

The bill requires every entity that operates a jail or place of custody in Ohio to designate an official to act on its behalf in carrying out immigration status determinations. The designated official must determine the immigration status of each individual arrested on or after the bill's effective date prior to the individual's release.³ The peace officer or designated official is required to verify an individual's immigration status with the federal government pursuant to the federal "Omnibus Consolidated Appropriations Act, 1997."⁴

An individual is presumed not to be an alien who is unlawfully present in the United States if the individual provides to the peace officer, law enforcement agency, or designated official any of the following:

- (1) A valid Ohio driver's license, commercial driver's license, or identification card, or a similar license or identification card issued by another state;
- (2) A valid tribal enrollment card or other form of tribal identification;
- (3) A valid form of identification issued by the federal government, including a military identification card or other identification card or document; or
- (4) Any document issued by a foreign government that grants the person temporary legal presence in the United States.⁵

For purposes of the bill, an "alien" is a person who is not a United States citizen or a United States national.⁶ An "alien unlawfully present in the United States" is any person whose unlawful immigration status has been verified by the federal government.⁷

² R.C. 2935.034(B).

³ R.C. 2935.034(C).

⁴ R.C. 2935.034(D). See also 110 Stat. 3009, 8 U.S.C.A. 1373(c), as amended.

⁵ R.C. 2935.034(E)(1) to (4).

⁶ R.C. 2935.034(A)(1).

⁷ R.C. 2935.034(A)(2).

COMMENT

The United States Supreme Court has held that an Arizona version of the bill that is substantively identical is not unconstitutional on the basis of preemption arguments raised in that case. The Court noted, however, that its ruling did not prevent other preemption and constitutional challenges to the law as it is interpreted and applied after it goes into effect.⁸

HISTORY

ACTION	DATE
Introduced	08-08-12

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⁸ *Arizona v. United States*, 132 S.Ct. 2492 (2012).

