

SECOND REGULAR SESSION

HOUSE BILL NO. 1346

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor) BRUNS, SCHAAF,
COX, ERVIN AND BROWN (30) (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

3327L.01I

AN ACT

To amend chapter 577, RSMo, by adding thereto ten new sections relating to the Missouri taxpayer and citizen protection act, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 577, RSMo, is amended by adding thereto ten new sections, to be
2 known as sections 577.720, 577.722, 577.724, 577.726, 577.728, 577.730, 577.732, 577.734,
3 577.736, and 577.738, to read as follows:

**577.720. Sections 577.720 to 577.738 shall be known as the "Missouri Taxpayer and
2 Citizen Protection Act".**

**577.722. 1. It shall be unlawful for any person to transport, move, or attempt to
2 transport in the state of Missouri any alien knowing or in reckless disregard of the fact that
3 the alien has come to, entered, or remained in the United States in violation of law, in
4 furtherance of the illegal presence of the alien in the United States.**

**2. It shall be unlawful for any person to conceal, harbor, or shelter from detection
5 any alien in any place within the state of Missouri including any building or means of
6 transportation, knowing or in reckless disregard of the fact that the alien has come to,
7 entered, or remained in the United States in violation of law.**

**3. Any person violating the provisions of subsection 1 or 2 of this section shall be
9 guilty of a felony for which the authorized term of imprisonment is a term of years not less
10**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 than one year, or by a fine in an amount not less than one thousand dollars, or by both
12 such fine and imprisonment.

577.724. 1. The following entities may create, publish, or otherwise manufacture
2 an identification document, identification card, or identification certificate and may possess
3 an engraved plate or other such devise for the printing of such identification; provided, the
4 name of the issuing entity shall be clearly printed upon the face of the identification:

5 (1) Businesses, companies, corporations, service organizations, and federal, state,
6 and local governmental agencies for employee identification which is designed to identify
7 the bearer as an employee;

8 (2) Businesses, companies, corporations, and service organizations for customer
9 identification which is designed to identify the bearer as a customer or member;

10 (3) Federal, state, and local government agencies for purposes authorized or
11 required by law or any legitimate purpose consistent with the duties of such an agency,
12 including but not limited to, voter identification cards, driver's licenses, nondriver's
13 licenses, passports, birth certificates, and Social Security cards;

14 (4) Any public or private elementary or secondary school, public vocational school,
15 or public or private junior college, college, or university, to identify the bearer as an
16 administrator, faculty member, student, or employee;

17 (5) Any professional organization or labor union to identify the bearer as a member
18 of the professional organization or labor union; and

19 (6) Businesses, companies, or corporations which manufacture medical-alert
20 identification for the wearer thereof.

21 2. All identification documents as provided for in subdivision (3) or (4) of
22 subsection 1 of this section shall be issued only to United States citizens, nationals and legal
23 permanent resident aliens.

24 3. The provisions of subsection 2 of this section shall not apply when an applicant
25 presents, in person, valid documentary evidence of:

26 (1) A valid, unexpired immigrant or nonimmigrant visa status for admission into
27 the United States;

28 (2) A pending or approved application for asylum in the United States;

29 (3) Admission into the United States in refugee status;

30 (4) A pending or approved application for temporary protected status in the United
31 States;

32 (5) Approved deferred action status; or

33 (6) A pending application for adjustment of status to legal permanent residence
34 status or conditional resident status. Upon approval, the applicant may be issued an

35 identification document provided for in subdivision (3) or (4) of subsection 1 of this section.
36 Such identification document shall be valid only during the period of time of the
37 authorized stay of the applicant in the United States or if there is no definite end to the
38 period of authorized stay, a period of one year. Any identification document issued under
39 the provisions of this subsection shall clearly indicate that it is temporary and shall state
40 the date that the identification document expires. Such identification document may be
41 renewed only upon presentation of valid documentary evidence that the status by which
42 the applicant qualified for the identification document has been extended by the United
43 States Immigration and Naturalization Service or the Bureau of Citizenship and
44 Immigration Services of the United States Department of Homeland Security.

45 4. The provisions of subsection 2 of this section shall not apply to an identification
46 document described in subdivision (4) of subsection 1 of this section that is only valid for
47 use on the campus or facility of that educational institution and includes a statement of
48 such restricted validity clearly and conspicuously printed upon the face of the
49 identification document.

50 5. Any driver's license for which an application has been made for renewal,
51 duplication, or reissuance shall be presumed to have been issued in accordance with the
52 provisions of subsection 3 of this section, provided that, at the time the application is made,
53 the driver's license has not expired, or been cancelled, suspended, or revoked. The
54 requirements of subsection 3 of this section shall apply, however, to a renewal, duplication,
55 or reissuance if the department of revenue is notified by a local, state, or federal
56 government agency of information in the possession of the agency indicating a reasonable
57 suspicion that the individual seeking such renewal, duplication, or reissuance is present in
58 the United States in violation of the law.

59 577.726. 1. When a person charged with a felony or with driving while intoxicated
60 under section 577.010 or driving with excessive blood alcohol content under section 577.012
61 is confined, for any period, in any jail, prison, or other detention facility a reasonable effort
62 shall be made to determine the citizenship status of the person so confined.

63 2. If the prisoner is a foreign national, the keeper of the jail or other officer shall
64 make a reasonable effort to verify that the prisoner has been lawfully admitted to the
65 United States and if lawfully admitted, that such lawful status has not expired. If
66 verification of lawful status can not be made from documents in the possession of the
67 prisoner, verification shall be made within forty-eight hours through a query to the Law
68 Enforcement Support Center of the United States Department of Homeland Security or
69 other office or agency designated for that purpose by the United States Department of
70 Homeland Security. If the lawful immigration status of the prisoner can not be verified,

13 the keeper of the jail or other officer shall notify the United States Department of
14 Homeland Security.

15 3. For the purpose of determining the grant of or issuance of bond, it shall be a
16 rebuttable presumption that a person whose citizenship status has been verified under
17 subsection 2 of this section to be a foreign national who has not been lawfully admitted to
18 the United States, is at risk of flight.

19 4. The Missouri department of public safety shall prepare and issue guidelines and
20 procedures used to comply with the provisions of this section.

577.728. As used in this section and section 577.730, the following terms shall mean:

2 (1) "Status verification system", an electronic system operated by the federal
3 government, through which an authorized official of an agency of the state of Missouri or
4 of a political subdivision therein may make an inquiry, by exercise of authority delegated
5 under Section 1373 of Title 8 of the United States Code, to verify or ascertain the
6 citizenship or immigration status of any individual within the jurisdiction of the agency for
7 any purpose authorized by section 577.730. The status verification system shall be deemed
8 to include:

9 (a) The electronic verification of work authorization program of the Illegal
10 Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, Division
11 C, Section 403(a); 8 U.S.C. 1324a, and operated by the United States Department of
12 Homeland Security, known as the Basic Pilot Program;

13 (b) Any equivalent federal program designated by the United States Department
14 of Homeland Security or any other federal agency authorized to verify the work eligibility
15 status of newly hired employees, under the Immigration Reform and Control Act of 1986
16 (IRCA), D.L. 99-603;

17 (c) Any other independent, third-party system with an equal or higher degree of
18 reliability as the programs, systems, or processes described in this subdivision; or

19 (d) The Social Security Number Verification service, or such similar online service
20 verification process implemented by the United States Social Security Administration;

21 (2) "Public employer", every department, agency, or instrumentality of the state
22 or a political subdivision of the state;

23 (3) "Subcontractor", includes a subcontractor, contract employee, staffing agency,
24 or any contractor regardless of its tier; and

25 (4) "Unauthorized alien", an alien as defined in Section 1324a(h)(3) of Title 8 of the
26 United States Code.

577.730. 1. Every public employer shall register and participate in the status
2 verification system to verify the work authorization status of all new employees.

3 2. (1) No public employer shall enter into a contract for the physical performance
4 of services within this state unless the contractor registers and participates in the status
5 verification system to verify the work authorization status of all new employees.

6 (2) No public employer or subcontractor who enters a contract with a public
7 employer shall enter into such a contract or subcontract in connection with the physical
8 performance of services within this state unless the contractor or subcontractor registers
9 and participates in the status verification system to verify information of all new
10 employees.

11 (3) The provisions of this subsection shall not apply to any contracts entered into
12 prior to August 28, 2008.

13 3. (1) It shall be a discriminatory practice for an employing entity to discharge an
14 employee working in Missouri who is a United States citizen or permanent resident alien
15 while retaining an employee who the employing entity knows, or reasonably should have
16 known, is an unauthorized alien hired after August 28, 2008, and who is working in
17 Missouri in a job category that requires equal skill, effort, and responsibility, and which
18 is performed under similar working conditions, as defined by 29 U.S.C. 206(d)(1), as the
19 job category held by the discharged employee.

20 (2) An employing entity which, on the date of the discharge in question, was
21 currently enrolled in and used a status verification system to verify the employment
22 eligibility of its employees in Missouri hired after August 28, 2008, shall be exempt from
23 liability, investigation, or suit arising from any action under this section.

24 (3) No cause of action for a violation of this subsection shall arise anywhere in
25 Missouri but from the provisions of this subsection.

26 4. The provisions of this section shall be enforced without regard to race or national
27 origin.

28 5. The department of labor and industrial relations shall prescribe forms and
29 promulgate rules and regulations deemed necessary in order to administer and effectuate
30 the provisions of this section and publish such rules and regulations on the department of
31 labor and industrial relations web site.

577.732. 1. Except as provided in subsection 3 of this section or where exempted
2 by federal law, every agency or a political subdivision of this state shall verify the lawful
3 presence in the United States of any natural person fourteen years of age or older who has
4 applied for state or local public benefits, as defined in 8 U.S.C. Section 1621, or for federal
5 public benefits, as defined in 8 U.S.C. 1611, that is administered by an agency or a political
6 subdivision of this state.

7 2. The provisions of this section shall be enforced without regard to race, religion,
8 gender, ethnicity, or national origin.

9 3. Verification of lawful presence under the provisions of this section shall not be
10 required:

11 (1) For any purpose for which lawful presence in the United States is not restricted
12 by law, ordinance, or regulation;

13 (2) For assistance for health care items and services that are necessary for the
14 treatment of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3),
15 of the alien involved and are not related to an organ transplant procedure;

16 (3) For short-term, noncash, in-kind emergency disaster relief;

17 (4) For public health assistance for immunizations with respect to diseases and for
18 testing and treatment of symptoms of communicable diseases whether or not such
19 symptoms are caused by a communicable disease; or

20 (5) For programs, services, or assistance such as soup kitchens, crisis counseling,
21 and intervention and short-term shelter specified by the United States Attorney General,
22 in the sole and unreviewable discretion of the United States Attorney General after
23 consultation with appropriate federal agencies and departments, which:

24 (a) Deliver in-kind services at the community level, including through public or
25 private nonprofit agencies;

26 (b) Do not condition the provision of assistance, the amount of assistance provided,
27 or the cost of assistance provided on the income or resources of the individual recipient;
28 and

29 (c) Are necessary for the protection of life or safety.

30 4. Verification of lawful presence in the United States by the agency or political
31 subdivision required to make such verification shall require that the applicant execute an
32 affidavit under penalty of perjury that:

33 (1) He or she is a United States citizen; or

34 (2) He or she is a qualified alien under the federal Immigration and Nationality Act,
35 and is lawfully present in the United States.

36

37 The agency or political subdivision providing the state or local public benefits shall provide
38 notary public services at no cost to the applicant.

39 5. For any applicant who has executed the affidavit described in subdivision (2) of
40 subsection 4 of this section, eligibility for benefits shall be made through the Systematic
41 Alien Verification of Entitlement Program operated by the United States Department of

42 **Homeland Security. Until such eligibility verification is made, the affidavit may be**
43 **presumed to be proof of lawful presence for the purposes of this section.**

44 **6. Any person who knowingly and willfully makes a false, fictitious, or fraudulent**
45 **statement of representation in an affidavit executed under subsection 4 of this section shall**
46 **be subject to criminal penalties applicable in this state for fraudulently obtaining public**
47 **assistance program benefits. If the affidavit constitutes a false claim of United States**
48 **citizenship under 18 U.S.C. Section 911 a complaint shall be filed by the agency requiring**
49 **the affidavit with the United States Attorney for the applicable district based upon the**
50 **venue in which the affidavit was executed.**

51 **7. Agencies or political subdivisions of this state may adopt variations to the**
52 **requirements of the provisions of this section which demonstrably improve the efficiency**
53 **or reduce delay in the verification process, or to provide for adjudication of unique**
54 **individual circumstances where the verification procedures in this section would impose**
55 **unusual hardship on a legal resident of Missouri.**

56 **8. It shall be unlawful for any agency or a political subdivision of this state to**
57 **provide any state, local, or federal benefit, as defined in 8 U.S.C. Section 1621 or 8 U.S.C.**
58 **Section 1611, in violation of the provisions of this section.**

59 **9. Each state agency or department which administers any program of state or local**
60 **public benefits shall provide an annual report to the governor, the president pro tem of the**
61 **senate and the speaker of the house of representatives with respect to its compliance with**
62 **the provisions of this section. Each agency or department shall monitor the systematic**
63 **alien verification of entitlement program for verification application errors and significant**
64 **delays and shall provide an annual public report on such errors and significant delays, and**
65 **recommendations to ensure that the application of the systematic alien verification of**
66 **entitlement program is not erroneously denying benefits to legal residents of Missouri.**
67 **Errors shall be reported to the United States Department of Homeland Security by each**
68 **agency or department.**

577.734. 1. If an individual independent contractor, contracting for the physical
2 **performance of services in this state, fails to provide to the contracting entity**
3 **documentation to verify the independent contractor's employment authorization, under**
4 **the prohibition against the use of unauthorized alien labor through contract set forth in**
5 **8 U.S.C., Section 1324(a)(4), the contracting entity shall be required to withhold state**
6 **income tax at the top marginal income tax rate as provided in section 143.011, RSMo, as**
7 **applied to compensation paid to such individual for the performance of such services**
8 **within this state which exceeds the minimum amount of compensation the contracting**

9 entity is required to report as income on the United States Internal Revenue Service Form
10 1099.

11 2. Any contracting entity who fails to comply with the withholding requirements
12 of this section shall be liable for the taxes required to have been withheld unless such
13 contracting entity is exempt from federal withholding with respect to such individual under
14 a properly filed Internal Revenue Service Form 8233 or its equivalent, and has provided
15 a copy of such form to the Missouri department of revenue.

577.736. 1. The attorney general is authorized and directed to negotiate the terms
2 of a memorandum of understanding between the state of Missouri and the United States
3 Department of Justice or the United States Department of Homeland Security, as provided
4 by Section 1357(g) of Title 8 of the United States Code, concerning the enforcement of
5 federal immigration and custom laws, detention and removals, and investigations in the
6 state of Missouri.

7 2. The memorandum of understanding negotiated under subsection 1 of this section
8 shall be signed on behalf of this state by the attorney general and the governor or as
9 otherwise required by the appropriate federal agency.

10 3. No local government, whether acting through its governing body or by an
11 initiative, referendum, or any other process, shall enact any ordinance or policy that limits
12 or prohibits a law enforcement officer, local official, or local government employee from
13 communicating or cooperating with federal officials with regard to the immigration status
14 of any person within this state.

15 4. Notwithstanding any other provision of law, no government entity or official
16 within the state of Missouri, may prohibit, or in any way restrict, any government entity
17 or official from sending to, or receiving from, the United States Department of Homeland
18 Security, information regarding the citizenship or immigration status, lawful or unlawful,
19 of any individual.

20 5. Notwithstanding any other provision of law, no person or agency may prohibit,
21 or in any way restrict, a public employee from doing any of the following with respect to
22 information regarding the immigration status, lawful or unlawful, of any individual:

23 (1) Sending such information to, or requesting or receiving such information from,
24 the United States Department of Homeland Security;

25 (2) Maintaining such information; or

26 (3) Exchanging such information with any other federal, state, or local government
27 entity.

28 6. The provisions of this section shall allow for a private right of action by any
29 natural or legal person lawfully domiciled in this state to file for a writ of mandamus to

30 **compel any noncooperating local or state governmental agency to comply with such**
31 **reporting laws.**

577.738. 1. An individual who is not lawfully present in the United States shall not
2 **be eligible on the basis of residence within the state for:**

3 **(1) Any postsecondary education benefit including, but not limited to, scholarships**
4 **or financial aid; or**

5 **(2) Resident tuition.**

6 **2. An individual not lawfully present in the United States may be eligible for**
7 **postsecondary education benefits if:**

8 **(1) The individual provides to the postsecondary educational institution a copy of**
9 **a true and correct application or petition filed with the United States Citizenship and**
10 **Immigration Services to legalize the individual's immigration status; or**

11 **(2) The individual files an affidavit with the postsecondary educational institution**
12 **stating that the individual will file an application to legalize his or her immigration status**
13 **at the earliest opportunity the student is eligible to do so, but in no case later than:**

14 **(a) One year after the date on which the student enrolls for study at the institution;**
15 **or**

16 **(b) If there is no formal process to permit children of parents without lawful**
17 **immigration status to apply for lawful status without risk of deportation, one year after the**
18 **date the United States Citizenship and Immigration Services provide such a formal**
19 **process; and**

20 **(3) The individual files an affidavit under subdivision (2) of this subsection, present**
21 **to the postsecondary educational institution a copy of a true and correct application or**
22 **petition filed with the United States Citizenship and Immigration Services no later than:**

23 **(a) One year after the date on which the individual enrolls for study at the**
24 **institution; or**

25 **(b) If there is no formal process to permit children of parents without lawful**
26 **immigration status to apply for lawful status without the risk of deportation, one year after**
27 **the date the United States Citizenship and Immigration Services provide such a formal**
28 **process, which copy shall be maintained in the institutions's records for that individual.**

29 **3. Any student who completes the required criteria provided in paragraph (a) of**
30 **subdivision (2) of subsection 2 of this section shall not be disqualified on the basis of the**
31 **individual's immigration status from any scholarships or financial aid provided by this**
32 **state.**

33 **4. The provisions of this section shall not impose any additional conditions to**
34 **maintain resident tuition at a postsecondary educational institution within the state of**

35 **Missouri on an individual who was enrolled in a degree program and first received such**
36 **resident tuition status at that institution during the 2007-2008 school year or any prior**
37 **year.**

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