

SECOND REGULAR SESSION

# SENATE BILL NO. 590

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed December 23, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4556S.02I

## AN ACT

To amend chapters 161 and 577, RSMo, by adding thereto three new sections relating to unlawfully present aliens, with penalty provisions.

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

Section A. Chapters 161 and 577, RSMo, are amended by adding thereto  
2 three new sections, to be known as sections 161.245, 577.685, and 577.690, to  
3 read as follows:

161.245. 1. At the time of enrollment of a student in a public  
2 elementary or secondary school in this state, such school shall  
3 determine whether the student enrolling was born outside the  
4 jurisdiction of the United States or is the child of an alien not lawfully  
5 present in the United States and qualifies for assignment to an English  
6 as second language class or other remedial program.

7 2. When making the determination required by subsection 1 of  
8 this section, the school shall rely upon presentation of the student's  
9 original birth certificate or a certified copy thereof.

10 3. If it is determined that the student was born outside the  
11 jurisdiction of the United States or is the child of an alien not lawfully  
12 present in the United States upon review of the student's birth  
13 certificate or where such certificate is not available for any reason, the  
14 parent, guardian, or legal custodian of the student shall notify the  
15 school of the actual citizenship or immigration status of the student  
16 under federal law within thirty days of the date of the student's  
17 enrollment.

18 4. Proper notification under subsection 3 of this section shall  
19 consist of the following:

20 (1) Presenting official documentation establishing the citizenship

21 and, in the case of an alien, the immigration status of the student, or  
22 alternatively by submitting a notarized copy of such documentation to  
23 a school official designated for such purpose by the school district in  
24 which the child is enrolled; and

25 (2) Attestation by the parent, guardian, or legal custodian, under  
26 penalty of perjury, that the document states the true identity of the  
27 child. If the student or his or her parent, guardian, or legal  
28 representative possesses no such documentation but nevertheless  
29 maintains that the student is either a United States citizen or an alien  
30 lawfully present in the United States, the parent, guardian, or legal  
31 representative of the student may sign a declaration so stating, under  
32 penalty of perjury.

33 5. If no such documentation or declaration is presented, the  
34 school official shall presume for the purposes of reporting under this  
35 section that the student is an alien unlawfully present in the United  
36 States.

37 (1) Each school district in this state shall collect and compile  
38 data as required by this section.

39 (2) Each school district shall submit an annual report listing all  
40 data obtained pursuant to this section to the state board of education.

41 6. (1) The state board of education shall compile and submit an  
42 annual public report to the general assembly. The report shall provide  
43 data, aggregated by school, regarding the numbers of United States  
44 citizens, of lawfully present aliens by immigration classification, and  
45 of aliens believed to be unlawfully present in the United States enrolled  
46 at all primary and secondary public schools in this state. The report  
47 shall also provide the number of students in each category  
48 participating in English as a second language programs enrolled at  
49 such schools.

50 (2) The report shall analyze and identify the effects upon the  
51 standard or quality of education provided to students who are citizens  
52 of the United States residing in Missouri that may have occurred, or  
53 are expected to occur in the future, as a consequence of the enrollment  
54 of students who are aliens not lawfully present in the United States.

55 (3) The report shall analyze and itemize the fiscal costs to the  
56 state and its political subdivisions of providing educational instruction,  
57 computers, textbooks and other supplies, free or discounted school

58 meals, and extracurricular activities to students who are aliens not  
59 lawfully present in the United States.

60 (4) The state board of education shall prepare and issue  
61 objective baseline criteria for identifying and assessing the other  
62 educational impacts on the quality of education provided to students  
63 who are citizens of the United States, due to the enrollment of aliens  
64 who are not lawfully present in the United States, in addition to the  
65 statistical data on citizenship and immigration status and English as a  
66 second language enrollment required by this section. The state board  
67 of education may contract with reputable scholars and research  
68 institutions to identify and validate such criteria. The state board of  
69 education shall assess such educational impact and include such  
70 assessments in its reports to the general assembly.

71 7. Public disclosure by any person of information obtained  
72 pursuant to this section which personally identifies any student shall  
73 be unlawful, except for purposes permitted pursuant to 8 U.S.C.  
74 Sections 1373 and 1644. Any person intending to make a public  
75 disclosure of information that is classified as confidential under this  
76 section, on the ground that such disclosure constitutes a use permitted  
77 by federal law, shall first apply to the attorney general and receive a  
78 waiver of confidentiality from the requirements of this subsection.

79 8. A student whose personal identity has been negligently or  
80 intentionally disclosed in violation of this section shall be deemed to  
81 have suffered an invasion of the student's right to privacy. The student  
82 shall have a civil remedy for such violation against the agency or  
83 person that has made the unauthorized disclosure.

84 9. The state board of education shall construe all provisions of  
85 this section in conformity with federal law.

86 10. This section shall be enforced without regard to race,  
87 religion, gender, ethnicity, or national origin.

577.685. 1. Upon any lawful stop, detention, or arrest made by a  
2 state, county, or municipal law enforcement officer of this state in the  
3 enforcement of any state law or ordinance of any political subdivision  
4 thereof, where reasonable suspicion exists that the person is an alien  
5 who is unlawfully present in the United States, a reasonable attempt  
6 shall be made, when practicable, to determine the citizenship and  
7 immigration status of the person, except if the determination may

8 hinder or obstruct an investigation. Such determination shall be made  
9 by contacting the federal government pursuant to 8 U.S.C. Section  
10 1373(c) and relying upon any verification provided by the federal  
11 government.

12 2. A law enforcement officer shall not attempt to independently  
13 make a final determination of whether an alien is lawfully present in  
14 the United States. A law enforcement officer may not consider race,  
15 color, or national origin in implementing the requirements of this  
16 section except to the extent permitted by the United States Constitution  
17 or the Constitution of Missouri.

18 3. A person is presumed to not be an alien who is unlawfully  
19 present in the United States if the person provides any of the following  
20 to the law enforcement officer:

21 (1) A valid, unexpired Missouri driver's license;

22 (2) A valid, unexpired Missouri nondriver's license;

23 (3) A valid tribal enrollment card or other form of tribal  
24 identification bearing a photograph or other biometric identifier;

25 (4) Any valid United States federal or state government issued  
26 identification document bearing a photograph or other biometric  
27 identifier, if issued by an entity that requires proof of lawful presence  
28 in the United States before issuance;

29 (5) A foreign passport with an unexpired United States visa and  
30 a corresponding stamp or notation by the United States Department of  
31 Homeland Security indicating the bearer's admission to the United  
32 States;

33 (6) A foreign passport issued by a visa waiver country with the  
34 corresponding entry stamp and unexpired duration of stay annotation  
35 or an I-94W form by the United States Department of Homeland  
36 Security indicating the bearer's admission to the United States.

37 4. If an alien is determined by the federal government to be an  
38 alien who is unlawfully present in the United States pursuant to 8  
39 U.S.C. Section 1373(c), the law enforcement agency shall cooperate in  
40 the transfer of the alien to the custody of the federal government, if the  
41 federal government so requests.

577.690. 1. In addition to any violation of federal law, a person  
2 is guilty of willful failure to complete or carry an alien registration  
3 document if the person is in violation of 8 U.S.C. Section 1304(e) or 8

4 U.S.C. Section 1306(a), and the person is an alien unlawfully present in  
5 the United States.

6       2. In the enforcement of this section, an alien's immigration  
7 status shall be determined by verification of the alien's immigration  
8 status with the federal government pursuant to 8 U.S.C. Section 1373(c).  
9 A law enforcement officer shall not attempt to independently make a  
10 final determination of whether an alien is lawfully present in the  
11 United States.

12       3. A law enforcement official or agency of this state or a county,  
13 city, or other political subdivision of this state may not consider race,  
14 color, or national origin in the enforcement of this section except to the  
15 extent permitted by the United States Constitution and the Constitution  
16 of Missouri.

17       4. This section does not apply to a person who maintains  
18 authorization from the federal government to be present in the United  
19 States.

20       5. Any record that relates to the immigration status of a person  
21 is admissible in any court of this state without further foundation or  
22 testimony from a custodian of records if the record is certified as  
23 authentic by the federal government agency that is responsible for  
24 maintaining the record. A verification of an alien's immigration status  
25 received from the federal government pursuant to 8 U.S.C. Section  
26 1373(c) shall constitute proof of that alien's status. A court of this state  
27 shall consider only the federal government's verification in  
28 determining whether an alien is lawfully present in the United States.

29       6. An alien unlawfully present in the United States who is in  
30 violation of this section shall be guilty of a class C misdemeanor.

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