

A bill for an act
relating to public safety; illegal immigration; requiring law enforcement to
enforce federal immigration laws; establishing eligibility criteria for federal
and state public benefits; requiring possession of alien identification cards;
prohibiting the transporting and smuggling of illegal immigrants; prohibiting
illegal immigrants from working or soliciting work in the state; prohibiting
the employment of illegal aliens; creating the Minnesota Illegal Immigration
Enforcement Team; requiring the attorney general to represent the state against
any challenges to this act; amending Minnesota Statutes 2009 Supplement,
section 629.34, subdivision 1; proposing coding for new law as Minnesota
Statutes, chapter 299P.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[299P.01] SHORT TITLE.**
This act may be cited as the "Support Our Law Enforcement and Safe Neighborhoods
Act".

Sec. 2. **[299P.02] INTENT.**
The legislature finds that there is a compelling interest in the cooperative
enforcement of federal immigration laws throughout all of Minnesota. The legislature
declares that the intent of this act is to make attrition through enforcement the public
policy of all state and local government agencies in Minnesota. The provisions of this act
are intended to work together to discourage and deter the unlawful entry and presence of
aliens and economic activity by persons unlawfully present in the United States.

Sec. 3. **[299P.03] ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS;**
DOCUMENTATION; VIOLATION; CLASSIFICATION; CITIZEN SUITS;
ATTORNEY FEES; DEFINITION.

(a) Notwithstanding any other state law and to the extent permitted by federal law, any natural person who applies for a federal public benefit that is administered by this state or a political subdivision of this state and that requires participants to be citizens of the United States, legal residents of the United States, or otherwise lawfully present in the United States shall submit at least one of the following documents to the entity that administers the federal public benefit demonstrating lawful presence in the United States:

(1) a Minnesota drivers license issued after 1996 or a Minnesota identification card;
(2) a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;

(3) a United States certificate of birth abroad;

(4) a United States passport;

(5) a foreign passport with a United States visa;

(6) an I-94 form with a photograph;

(7) a United States citizenship and immigration services employment authorization document or refugee travel document;

(8) a United States certificate of naturalization;

(9) a United States certificate of citizenship;

(10) a tribal certificate of Indian blood; or

(11) a tribal or bureau of Indian affairs affidavit of birth.

(b) To the extent permitted by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly, and persons with disabilities or incapacity of the mind or body to provide documentation as specified in section 6036 of the federal Deficit Reduction Act of 2005, Public Law 109-171; 120 Statutes at Large 81, and related federal guidance in lieu of the documentation required by this section.

(c) Any person who applies for federal public benefits shall sign a sworn affidavit stating that the documents presented pursuant to paragraph (a) are true under penalty of perjury.

(d) Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any federal public benefit is a misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a misdemeanor.

(e) This section shall be enforced without regard to race, color, religion, sex, age, disability, or national origin.

(f) Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

(g) The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town, or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section. For the purposes of this section, "federal public benefit" has the same meaning prescribed in United States Code, title 8, section 1611.

Sec. 4. [299P.04] ELIGIBILITY FOR STATE OR LOCAL PUBLIC BENEFITS; DOCUMENTATION; VIOLATION; CLASSIFICATION; CITIZEN SUITS; ATTORNEY FEES; DEFINITION.

(a) Notwithstanding any other state law and to the extent permitted by federal law, any agency of this state or a political subdivision of this state that administers any state or local public benefit shall require each natural person who applies for the state or local public benefit to submit at least one of the following documents to the entity that administers the state or local public benefit demonstrating lawful presence in the United States:

(1) a Minnesota drivers license issued after 1996 or a Minnesota identification card;

(2) a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;

(3) a United States certificate of birth abroad;

(4) a United States passport;

(5) a foreign passport with a United States visa;

(6) an I-94 form with a photograph;

(7) a United States citizenship and immigration services employment authorization document or refugee travel document;

(8) a United States certificate of naturalization;

(9) a United States certificate of citizenship;

(10) a tribal certificate of Indian blood; or

(11) a tribal or bureau of Indian affairs affidavit of birth.

(b) To the extent permitted by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly, and persons with disabilities or incapacity of the mind or body to provide documentation as specified in

section 6036 of the federal Deficit Reduction Act of 2005, Public Law 109-171; 120 Statutes at Large 81, and related federal guidance in lieu of the documentation required by this section.

(c) Any person who applies for state or local public benefits shall sign a sworn affidavit stating that the documents presented pursuant to paragraph (a) are true under penalty of perjury.

(d) Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any state or local public benefit is a misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a misdemeanor.

(e) This section shall be enforced without regard to race, color, religion, sex, age, disability, or national origin.

(f) Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

(g) The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town, or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section. For the purposes of this section, "state or local public benefit" has the same meaning prescribed in United States Code, title 8, section 1621, except that it does not include commercial or professional licenses or benefits provided by the public retirement systems and plans of this state or services widely available to the general population as a whole.

Sec. 5. [299P.05] COOPERATION AND ASSISTANCE IN ENFORCEMENT OF IMMIGRATION LAWS; INDEMNIFICATION.

(a) No official or agency of this state or a county, city, town, or other political subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

(b) For any lawful stop, detention, or arrest made by a law enforcement official or a law enforcement agency of this state or a law enforcement official or a law enforcement agency of a county, city, town, or other political subdivision of this state in the enforcement of any other law or ordinance of a county, city, or town or this state where reasonable

suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Any person who is arrested shall have the person's immigration status determined before the person is released. The person's immigration status shall be verified with the federal government pursuant to United States Code, title 8, section 1373(c). A law enforcement official or agency of this state or a county, city, town, or other political subdivision of this state may not consider race, color, or national origin in implementing the requirements of this section except to the extent permitted by the United States or Minnesota Constitution. A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

(1) a valid Minnesota drivers license;

(2) a valid Minnesota identification card;

(3) a valid tribal enrollment card or other form of tribal identification; or

(4) if the entity requires proof of legal presence in the United States before issuance, any valid United States federal, state, or local government issued identification.

(c) If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or on the assessment of any monetary obligation that is imposed, the United States Immigration and Customs Enforcement or the United States Customs and Border Protection shall be immediately notified.

(d) Notwithstanding any other law, a law enforcement agency may securely transport an alien who the agency has received verification is unlawfully present in the United States and who is in the agency's custody to a federal facility in this state or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial authorization before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside of this state.

(e) In the implementation of this section, an alien's immigration status may be determined by:

(1) a law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status; or

(2) the United States Immigration and Customs Enforcement or the United States Customs and Border Protection pursuant to United States Code, title 8, section 1373(c).

(f) Except as provided in federal law, officials or agencies of this state and counties, cities, towns, and other political subdivisions of this state may not be prohibited or in any

way be restricted from sending, receiving, or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state, or local governmental entity for the following official purposes:

(1) determining eligibility for any public benefit, service, or license provided by any federal, state, local, or other political subdivision of this state;

(2) verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state;

(3) if the person is an alien, determining whether the person is in compliance with the federal registration laws prescribed by title II, chapter 7, of the federal Immigration and Nationality Act; or

(4) pursuant to United States Code, title 8, section 1373, and United States Code, title 8, section 1644.

(g) This section does not implement, authorize, or establish and shall not be construed to implement, authorize, or establish the REAL ID Act 2005, Public Law 109-13, division B; 119 Statutes at Large 302, including the use of a radio frequency identification chip.

(h) A person who is a legal resident of this state may bring an action in district court to challenge any official or agency of this state or a county, city, town, or other political subdivision of this state that adopts or implements a policy that limits or restricts the enforcement of federal immigration laws, including United States Code, title 8, sections 1373 and 1644, to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order that the entity pay a civil penalty of not less than \$500 and not more than \$5,000 for each day that the policy has remained in effect after the filing of an action pursuant to this section.

(i) A court shall collect the civil penalty prescribed in paragraph (h) and remit the civil penalty to the state treasurer for deposit in the illegal immigration enforcement team fund established by section 299P.15.

(j) The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town, or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

(k) Except in relation to matters in which the officer is adjudged to have acted in bad faith, a law enforcement officer is indemnified by the law enforcement officer's agency against reasonable costs and expenses, including attorney fees, incurred by the officer in

connection with any action, suit, or proceeding brought pursuant to this section in which the officer may be a defendant by reason of the officer being or having been a member of the law enforcement agency.

(l) This section shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons, and respecting the privileges and immunities of United States citizens.

Sec. 6. [299P.06] WILLFUL FAILURE TO COMPLETE OR CARRY AN ALIEN REGISTRATION DOCUMENT; ASSESSMENT; EXCEPTION; AUTHENTICATED RECORDS; CLASSIFICATION.

(a) In addition to any violation of federal law, a person is guilty of willful failure to complete or carry an alien registration document if the person is in violation of United States Code, title 8, section 1304(e) or 1306(a).

(b) In the enforcement of this section, an alien's immigration status may be determined by:

(1) a law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status;

(2) the United States Immigration and Customs Enforcement or the United States Customs and Border Protection pursuant to United States Code, title 8, section 1373(c).

(c) A law enforcement official or agency of this state or a county, city, town, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section except to the extent permitted by the United States or Minnesota Constitution.

(d) A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon, commutation of sentence, or release from confinement until the sentence imposed by the court has been served.

(e) In addition to any other penalty prescribed by law, the court shall order the person to pay jail costs.

(f) This section does not apply to a person who maintains authorization from the federal government to remain in the United States.

(g) Any record that relates to the immigration status of a person is admissible in any court without further foundation or testimony from a custodian of records if the record is certified as authentic by the government agency that is responsible for maintaining the record.

(h) A violation of this section is a misdemeanor, except that the maximum fine is \$100. For a first violation, the court shall not sentence the person to more than 20 days in

jail, and for a second or subsequent violation, the court shall not sentence the person to more than 30 days in jail.

Sec. 7. [299P.07] UNLAWFUL APPLICATION, SOLICITATION, OR EMPLOYMENT; CLASSIFICATION; DEFINITIONS.

(a) It is unlawful for a person who is unlawfully present in the United States and who is an unauthorized alien to knowingly apply for work, solicit work in a public place, or perform work as an employee or independent contractor in this state.

(b) A law enforcement official or agency of this state or a county, city, town, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section except to the extent permitted by the United States or Minnesota Constitution.

(c) In the enforcement of this section, an alien's immigration status may be determined by:

(1) a law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status;

(2) the United States Immigration and Customs Enforcement or the United States Customs and Border Protection pursuant to United States Code, title 8, section 1373(c).

(d) A violation of this section is a misdemeanor.

(e) For the purposes of this section:

(1) "solicit" means verbal or nonverbal communication by a gesture or a nod that would indicate to a reasonable person that a person is willing to be employed; and

(2) "unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the United States as described in United States Code, title 8, section 1324a(h)(3).

Sec. 8. [299P.08] UNLAWFUL TRANSPORTING, MOVING, CONCEALING, HARBORING, OR SHIELDING OF UNLAWFUL ALIENS; VEHICLE IMPOUNDMENT; EXCEPTION; CLASSIFICATION.

(a) It is unlawful for a person to:

(1) transport or move or attempt to transport or move an alien in this state, in furtherance of the illegal presence of the alien in the United States, in a means of transportation if the person knows or recklessly disregards the fact that the alien has come to, has entered, or remains in the United States in violation of law;

(2) conceal, harbor, or shield or attempt to conceal, harbor, or shield an alien from detection in any place in this state, including any building or any means of transportation,

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if the person knows or recklessly disregards the fact that the alien has come to, has entered, or remains in the United States in violation of law; and

(3) encourage or induce an alien to come to or reside in this state if the person knows or recklessly disregards the fact that such coming to, entering, or residing in this state is or will be in violation of law.

(b) A means of transportation that is used in the commission of a violation of this section is subject to vehicle immobilization or impoundment pursuant to section 609.5312.

(c) A law enforcement official or agency of this state or a county, city, town, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section except to the extent permitted by the United States or Minnesota Constitution.

(d) In the enforcement of this section, an alien's immigration status may be determined by:

(1) a law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status;

(2) the United States Immigration and Customs Enforcement or the United States Customs and Border Protection pursuant to United States Code, title 8, section 1373(c).

(e) This section does not apply to a child protective services worker acting in the worker's official capacity or a person who is acting in the capacity of a first responder, an ambulance attendant, or an emergency medical technician and who is transporting or moving an alien in this state.

(f) A person who violates this section is guilty of a gross misdemeanor and is subject to a fine of at least \$1,000, except that a violation of this section that involves ten or more illegal aliens is a felony and the person is subject to a fine of at least \$1,000 for each alien who is involved.

Sec. 9. [299P.09] SMUGGLING; CLASSIFICATION; DEFINITIONS.

(a) It is unlawful for a person to intentionally engage in the smuggling of human beings for profit or commercial purpose.

(b) A violation of this section is a felony.

(c) Notwithstanding paragraph (b), a violation of this section:

(1) is a five-year felony if the human being who is smuggled is under 18 years of age and is not accompanied by a family member over 18 years of age or the offense involved the use of a dangerous weapon; and

(2) is a two-year felony if the offense involves the use or threatened use of deadly physical force.

(d) Notwithstanding any other law, a peace officer may lawfully stop any person who is operating a motor vehicle if the officer has reasonable suspicion to believe the person is in violation of any civil traffic law and this section.

(e) For the purposes of this section:

(1) "family member" means the person's parent, grandparent, sibling, or any other person who is related to the person by consanguinity or affinity to the second degree;

(2) "procurement of transportation" means any participation in or facilitation of transportation and includes:

(i) providing services that facilitate transportation including travel arrangement services or money transmission services; and

(ii) providing property that facilitates transportation, including a weapon, a vehicle or other means of transportation, or false identification, or selling, leasing, renting, or otherwise making available temporary shelter; and

(3) "smuggling of human beings" means the transportation, procurement of transportation, or use of property or real property by a person or an entity that knows or has reason to know that the person or persons transported or to be transported are not United States citizens, permanent resident aliens, or persons otherwise lawfully in this state or have attempted to enter, entered, or remained in the United States in violation of law.

Sec. 10. [299P.10] KNOWINGLY EMPLOYING UNAUTHORIZED ALIENS; PROHIBITION; FALSE AND FRIVOLOUS COMPLAINTS; VIOLATION; CLASSIFICATION; LICENSE SUSPENSION AND REVOCATION; AFFIRMATIVE DEFENSE.

(a) An employer shall not knowingly employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract, or other independent contractor agreement to obtain the labor of an alien in this state, the employer knowingly contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this section.

(b) The attorney general shall prescribe a complaint form for a person to allege a violation of paragraph (a). The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly knowingly employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated paragraph (a). If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated paragraph (a). This section shall not

be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color, or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to United States Code, title 8, section 1373(c). A state, county, or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to United States Code, title 8, section 1373(c). A person who knowingly files a false and frivolous complaint under this paragraph is guilty of a misdemeanor.

(c) If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

(1) the attorney general or county attorney shall notify the United States Immigration and Customs Enforcement of the unauthorized alien;

(2) the attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien; and

(3) the attorney general shall notify the appropriate county attorney to bring an action pursuant to paragraph (d) if the complaint was originally filed with the attorney general.

(d) An action for a violation of paragraph (a) shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of paragraph (a) that occurs before January 1, 2011. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of paragraph (a) or section 299P.11, paragraph (a).

(e) For any action filed under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

(f) On a finding of a violation of paragraph (a):

(1) for a first violation, the court:

(i) shall order the employer to terminate the employment of all unauthorized aliens;

(ii) shall order the employer to be subject to a three-year probationary period for the business location where the unauthorized alien performed work. During the probationary

12.1 period the employer shall file quarterly reports with the county attorney of each new
12.2 employee who is hired by the employer at the business location where the unauthorized
12.3 alien performed work;

12.4 (iii) shall order the employer to file a signed sworn affidavit with the county attorney
12.5 within three business days after the order is issued. The affidavit shall state that the
12.6 employer has terminated the employment of all unauthorized aliens in this state and that
12.7 the employer will not intentionally or knowingly employ an unauthorized alien in this
12.8 state. The court shall order the appropriate agencies to suspend all licenses subject to this
12.9 subdivision that are held by the employer if the employer fails to file a signed sworn
12.10 affidavit with the county attorney within three business days after the order is issued.
12.11 All licenses that are suspended under this subdivision shall remain suspended until the
12.12 employer files a signed sworn affidavit with the county attorney. Notwithstanding any
12.13 other law, on filing of the affidavit the suspended licenses shall be reinstated immediately
12.14 by the appropriate agencies. For the purposes of this subdivision, the licenses that are
12.15 subject to suspension under this subdivision are all licenses that are held by the employer
12.16 specific to the business location where the unauthorized alien performed work. If the
12.17 employer does not hold a license specific to the business location where the unauthorized
12.18 alien performed work, but a license is necessary to operate the employer's business in
12.19 general, the licenses that are subject to suspension under this subdivision are all licenses
12.20 that are held by the employer at the employer's primary place of business. On receipt of
12.21 the court's order and notwithstanding any other law, the appropriate agencies shall suspend
12.22 the licenses according to the court's order. The court shall send a copy of the court's
12.23 order to the attorney general and the attorney general shall maintain the copy pursuant to
12.24 paragraph (g); and

12.25 (iv) may order the appropriate agencies to suspend all licenses described in item
12.26 (iii) that are held by the employer not to exceed ten business days. The court shall base
12.27 its decision to suspend under this section on any evidence or information submitted to it
12.28 during the action for a violation of this section and shall consider the following factors, if
12.29 relevant:

12.30 (A) the number of unauthorized aliens employed by the employer;

12.31 (B) any prior misconduct by the employer;

12.32 (C) the degree of harm resulting from the violation;

12.33 (D) whether the employer made good-faith efforts to comply with any applicable
12.34 requirements;

12.35 (E) the duration of the violation;

(F) the role of the directors, officers, or principals of the employer in the violation;
and

(G) any other factors the court deems appropriate;

(2) for a second violation of paragraph (a), the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses; and

(3) the violation shall be considered:

(i) a first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under this section or section 299P.11, paragraph (f), for that employer's business location; or

(ii) a second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this section or section 299P.11, paragraph (f), for that employer's business location.

(g) The attorney general shall maintain copies of court orders that are received pursuant to paragraph (f) and shall maintain a database of the employers and business locations that have a first violation of paragraph (a) and make the court orders available on the attorney general's Web site.

(h) On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to United States Code, title 8, section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to United States Code, title 8, section 1373(c).

(i) For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not knowingly employ an unauthorized alien.

(j) For the purposes of this section, an employer that establishes that it has complied in good faith with the requirements of United States Code, title 8, section 1324a(b), establishes an affirmative defense that the employer did not knowingly employ an

14.1 unauthorized alien. An employer is considered to have complied with the requirements of
14.2 United States Code, title 8, section 1324a(b), notwithstanding an isolated, sporadic, or
14.3 accidental technical or procedural failure to meet the requirements, if there is a good-faith
14.4 attempt to comply with the requirements.

14.5 (k) It is an affirmative defense to a violation of paragraph (a) that the employer was
14.6 entrapped. To claim entrapment, the employer must admit by the employer's testimony
14.7 or other evidence the substantial elements of the violation. An employer who asserts an
14.8 entrapment defense has the burden of proving the following by clear and convincing
14.9 evidence:

14.10 (1) the idea of committing the violation started with law enforcement officers or
14.11 their agents rather than with the employer;

14.12 (2) the law enforcement officers or their agents urged and induced the employer to
14.13 commit the violation; and

14.14 (3) the employer was not predisposed to commit the violation before the law
14.15 enforcement officers or their agents urged and induced the employer to commit the
14.16 violation.

14.17 (l) An employer does not establish entrapment if the employer was predisposed to
14.18 violate paragraph (a) and the law enforcement officers or their agents merely provided
14.19 the employer with an opportunity to commit the violation. It is not entrapment for law
14.20 enforcement officers or their agents merely to use a ruse or to conceal their identity. The
14.21 conduct of law enforcement officers and their agents may be considered in determining if
14.22 an employer has proven entrapment.

14.23 **Sec. 11. [299P.11] INTENTIONALLY EMPLOYING UNAUTHORIZED**
14.24 **ALIENS; PROHIBITION; FALSE AND FRIVOLOUS COMPLAINTS;**
14.25 **VIOLATION; CLASSIFICATION; LICENSE SUSPENSION AND REVOCATION;**
14.26 **AFFIRMATIVE DEFENSE.**

14.27 (a) An employer shall not intentionally employ an unauthorized alien. If, in the case
14.28 when an employer uses a contract, subcontract, or other independent contractor agreement
14.29 to obtain the labor of an alien in this state, the employer intentionally contracts with an
14.30 unauthorized alien or with a person who employs or contracts with an unauthorized alien
14.31 to perform the labor, the employer violates this section.

14.32 (b) The attorney general shall prescribe a complaint form for a person to allege a
14.33 violation of paragraph (a). The complainant shall not be required to list the complainant's
14.34 Social Security number on the complaint form or to have the complaint form notarized.
14.35 On receipt of a complaint on a prescribed complaint form that an employer allegedly

intentionally employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated paragraph (a). If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated paragraph (a). This paragraph shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color, or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to United States Code, title 8, section 1373(c). A state, county, or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to United States Code, title 8, section 1373(c). A person who knowingly files a false and frivolous complaint under this section is guilty of a misdemeanor.

(c) If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

(1) the attorney general or county attorney shall notify the United States Immigration and Customs Enforcement of the unauthorized alien;

(2) the attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien; and

(3) the attorney general shall notify the appropriate county attorney to bring an action pursuant to paragraph (d) if the complaint was originally filed with the attorney general.

(d) An action for a violation of paragraph (a) shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of paragraph (a) that occurs before January 1, 2011. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of paragraph (a) or section 299P.10, paragraph (a).

(e) For any action under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

(f) On a finding of a violation of paragraph (a):

16.1 (1) for a first violation, the court shall:

16.2 (i) order the employer to terminate the employment of all unauthorized aliens;

16.3 (ii) order the employer to be subject to a five-year probationary period for the

16.4 business location where the unauthorized alien performed work. During the probationary

16.5 period the employer shall file quarterly reports with the county attorney of each new

16.6 employee who is hired by the employer at the business location where the unauthorized

16.7 alien performed work;

16.8 (iii) order the appropriate agencies to suspend all licenses described in item (iv) that

16.9 are held by the employer for a minimum of ten days. The court shall base its decision

16.10 on the length of the suspension under this paragraph on any evidence or information

16.11 submitted to it during the action for a violation of this section and shall consider the

16.12 following factors, if relevant:

16.13 (A) the number of unauthorized aliens employed by the employer;

16.14 (B) any prior misconduct by the employer;

16.15 (C) the degree of harm resulting from the violation;

16.16 (D) whether the employer made good-faith efforts to comply with any applicable

16.17 requirements;

16.18 (E) the duration of the violation;

16.19 (F) the role of the directors, officers, or principals of the employer in the violation;

16.20 and

16.21 (G) any other factors the court deems appropriate; and

16.22 (iv) order the employer to file a signed sworn affidavit with the county attorney. The

16.23 affidavit shall state that the employer has terminated the employment of all unauthorized

16.24 aliens in this state and that the employer will not intentionally or knowingly employ an

16.25 unauthorized alien in this state. The court shall order the appropriate agencies to suspend

16.26 all licenses subject to this item that are held by the employer if the employer fails to file a

16.27 signed sworn affidavit with the county attorney within three business days after the order

16.28 is issued. All licenses that are suspended under this item for failing to file a signed sworn

16.29 affidavit shall remain suspended until the employer files a signed sworn affidavit with the

16.30 county attorney. For purposes of this item, the licenses that are subject to suspension under

16.31 this item are all licenses that are held by the employer specific to the business location

16.32 where the unauthorized alien performed work. If the employer does not hold a license

16.33 specific to the business location where the unauthorized alien performed work, but a

16.34 license is necessary to operate the employer's business in general, the licenses that are

16.35 subject to suspension under this item are all licenses that are held by the employer at the

16.36 employer's primary place of business. On receipt of the court's order and notwithstanding

17.1 any other law, the appropriate agencies shall suspend the licenses according to the court's
17.2 order. The court shall send a copy of the court's order to the attorney general and the
17.3 attorney general shall maintain the copy pursuant to paragraph (g);

17.4 (2) for a second violation, the court shall order the appropriate agencies to
17.5 permanently revoke all licenses that are held by the employer specific to the business
17.6 location where the unauthorized alien performed work. If the employer does not hold a
17.7 license specific to the business location where the unauthorized alien performed work, but
17.8 a license is necessary to operate the employer's business in general, the court shall order
17.9 the appropriate agencies to permanently revoke all licenses that are held by the employer
17.10 at the employer's primary place of business. On receipt of the order and notwithstanding
17.11 any other law, the appropriate agencies shall immediately revoke the licenses; and

17.12 (3) the violation shall be considered:

17.13 (i) a first violation by an employer at a business location if the violation did not
17.14 occur during a probationary period ordered by the court under this paragraph or section
17.15 299P.08, paragraph (f), for that employer's business location; and

17.16 (ii) a second violation by an employer at a business location if the violation occurred
17.17 during a probationary period ordered by the court under this paragraph or section 299P.10,
17.18 paragraph (f), for that employer's business location.

17.19 (g) The attorney general shall maintain copies of court orders that are received
17.20 pursuant to paragraph (f) and shall maintain a database of the employers and business
17.21 locations that have a first violation of paragraph (a) and make the court orders available on
17.22 the attorney general's Web site.

17.23 (h) On determining whether an employee is an unauthorized alien, the court shall
17.24 consider only the federal government's determination pursuant to United States Code,
17.25 title 8, section 1373(c). The federal government's determination creates a rebuttable
17.26 presumption of the employee's lawful status. The court may take judicial notice of the
17.27 federal government's determination and may request the federal government to provide
17.28 automated or testimonial verification pursuant to United States Code, title 8, section
17.29 1373(c).

17.30 (i) For the purposes of this section, proof of verifying the employment authorization
17.31 of an employee through the e-verify program creates a rebuttable presumption that an
17.32 employer did not intentionally employ an unauthorized alien.

17.33 (j) For the purposes of this section, an employer that establishes that it has complied
17.34 in good faith with the requirements of United States Code, title 8, section 1324a(b),
17.35 establishes an affirmative defense that the employer did not intentionally employ an
17.36 unauthorized alien. An employer is considered to have complied with the requirements of

United States Code, title 8, section 1324a(b), notwithstanding an isolated, sporadic, or accidental technical or procedural failure to meet the requirements, if there is a good-faith attempt to comply with the requirements.

(k) It is an affirmative defense to a violation of paragraph (a) that the employer was entrapped. To claim entrapment, the employer must admit by the employer's testimony or other evidence the substantial elements of the violation. An employer who asserts an entrapment defense has the burden of proving the following by clear and convincing evidence:

(1) the idea of committing the violation started with law enforcement officers or their agents rather than with the employer;

(2) the law enforcement officers or their agents urged and induced the employer to commit the violation; and

(3) the employer was not predisposed to commit the violation before the law enforcement officers or their agents urged and induced the employer to commit the violation.

(l) An employer does not establish entrapment if the employer was predisposed to violate paragraph (a) and the law enforcement officers or their agents merely provided the employer with an opportunity to commit the violation. It is not entrapment for law enforcement officers or their agents merely to use a ruse or to conceal their identity. The conduct of law enforcement officers and their agents may be considered in determining if an employer has proven entrapment.

Sec. 12. [299P.12] VERIFICATION OF EMPLOYMENT ELIGIBILITY; E-VERIFY PROGRAM; ECONOMIC DEVELOPMENT INCENTIVES; LIST OF REGISTERED EMPLOYERS.

(a) After December 31, 2010, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.

(b) In addition to any other requirement for an employer to receive an economic development incentive from a local unit of government, the employer shall register with and participate in the e-verify program. Before receiving the economic development incentive, the employer shall provide proof to the government entity that the employer is registered with and is participating in the e-verify program. If the government entity determines that the employer is not complying with this section, the government entity shall notify the employer by certified mail of the government entity's determination

of noncompliance and the employer's right to appeal the determination. On a final determination of noncompliance, the employer shall repay all money received as an economic development incentive to the government entity within 30 days of the final determination. For the purposes of this paragraph, "economic development incentive" means any grant, loan, or performance-based incentive from any government entity that is awarded after September 30, 2010.

(c) Every three months the attorney general shall request from the United States Department of Homeland Security a list of employers from this state that are registered with the e-verify program. On receipt of the list of employers, the attorney general shall make the list available on the attorney general's Web site.

Sec. 13. [299P.13] ILLEGAL IMMIGRATION TRAINING; ENFORCEMENT TEAM.

Subdivision 1. **Immigration enforcement training.** The commissioner of public safety, in consultation with representatives of the United States Department of Justice and the United States Department of Homeland Security, shall develop a course to train state law enforcement officers to enforce federal immigration laws. The course must comply with applicable federal training guidelines and cover immigration law, immigrant questioning, immigrant detention and arrest, civil rights, public complaint procedures, antiracial profiling procedures, and other topics necessary to prepare state law enforcement officers to enforce federal immigration laws.

Subd. 2. **Minnesota illegal immigration enforcement team (MIJET).** The Minnesota illegal immigration enforcement team (MIJET) is established. The commissioner of public safety shall convene and direct the enforcement team. MIJET shall be comprised of at least ten law enforcement officers who have completed the course the commissioner develops under subdivision 1. The commissioner shall develop, and use MIJET to implement, an illegal immigration enforcement strategy for state and local law enforcement agencies. MIJET shall assist local units of government in investigating and apprehending illegal immigrants. The team shall focus its time and resources on identifying and apprehending illegal immigrants who are involved in felony-level criminal activity.

Sec. 14. [299P.14] ILLEGAL IMMIGRATION ENFORCEMENT TEAM FUND.

The illegal immigration enforcement team fund is established as a special revenue fund. In addition to specific legislative appropriations, the fund shall receive all fines collected pursuant to sections 299P.05, 299P.10, and 299P.11. The commissioner of public

20.1 safety shall administer the fund. Money in the fund are subject to legislative appropriation
20.2 and shall be used for illegal immigration enforcement for county jail reimbursement
20.3 costs relating to illegal immigration, and to fund the Minnesota Illegal Immigration
20.4 Enforcement Team.

20.5 Sec. 15. **[299P.15] IMMIGRATION LEGISLATION CHALLENGES.**

20.6 (a) Notwithstanding any law to the contrary, the attorney general shall act at the
20.7 direction of the governor in any challenge in a state or federal court to this act and any
20.8 amendments to the act.

20.9 (b) Notwithstanding any law to the contrary, the governor may direct counsel other
20.10 than the attorney general to appear on behalf of this state to defend any challenge to
20.11 this act and any amendments to the act.

20.12 Sec. 16. **[299P.16] SEVERABILITY, IMPLEMENTATION, AND**
20.13 **CONSTRUCTION.**

20.14 (a) If a provision of this act or its application to any person or circumstance is held
20.15 invalid, the invalidity does not affect other provisions or applications of the act that can be
20.16 given effect without the invalid provision or application, and to this end the provisions
20.17 of this act are severable.

20.18 (b) The terms of this act regarding immigration shall be construed to have the
20.19 meanings given them under federal immigration law.

20.20 (c) This act shall be implemented in a manner consistent with federal laws regulating
20.21 immigration, protecting the civil rights of all persons, and respecting the privileges and
20.22 immunities of United States citizens.

20.23 Sec. 17. Minnesota Statutes 2009 Supplement, section 629.34, subdivision 1, is
20.24 amended to read:

20.25 Subdivision 1. **Peace officers.** (a) A peace officer, as defined in section 626.84,
20.26 subdivision 1, clause (c), who is on or off duty within the jurisdiction of the appointing
20.27 authority, or on duty outside the jurisdiction of the appointing authority pursuant to section
20.28 629.40, may arrest a person without a warrant as provided under paragraph (c).

20.29 (b) A part-time peace officer, as defined in section 626.84, subdivision 1, clause (d),
20.30 who is on duty within the jurisdiction of the appointing authority, or on duty outside the
20.31 jurisdiction of the appointing authority pursuant to section 629.40 may arrest a person
20.32 without a warrant as provided under paragraph (c).

21.1 (c) A peace officer or part-time peace officer who is authorized under paragraph (a)
21.2 or (b) to make an arrest without a warrant may do so under the following circumstances:
21.3 (1) when a public offense has been committed or attempted in the officer's presence;
21.4 (2) when the person arrested has committed a felony, although not in the officer's
21.5 presence;
21.6 (3) when a felony has in fact been committed, and the officer has reasonable cause
21.7 for believing the person arrested to have committed it;
21.8 (4) upon a charge based upon reasonable cause of the commission of a felony by
21.9 the person arrested;
21.10 (5) under the circumstances described in clause (2), (3), or (4), when the offense is a
21.11 gross misdemeanor violation of section 609.52, 609.595, 609.631, 609.749, or 609.821;
21.12 (6) under circumstances described in clause (2), (3), or (4), when the offense is a
21.13 nonfelony violation of a restraining order or no contact order previously issued by a
21.14 court; ~~or~~
21.15 (7) under the circumstances described in clause (2), (3), or (4), when the offense is
21.16 a gross misdemeanor violation of section 609.485 and the person arrested is a juvenile
21.17 committed to the custody of the commissioner of corrections; or
21.18 (8) when a public offense has been committed that makes the person removable
21.19 from the United States.
21.20 (d) To make an arrest authorized under this subdivision, the officer may break open
21.21 an outer or inner door or window of a dwelling house if, after notice of office and purpose,
21.22 the officer is refused admittance.