

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

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Georgia Latino Alliance for Human  
Rights, *et al.*,

Plaintiffs,

v.

Governor Nathan Deal, *et al.*,

Defendants.

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) Case No. 1:11-cv-1804-TWT  
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**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY  
INJUNCTION**

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## INTRODUCTION

Plaintiffs move for a preliminary injunction barring the enforcement of Georgia's Illegal Immigration Reform and Enforcement Act of 2011 ("HB 87"). Most of HB 87 is currently scheduled to take effect on July 1, 2011. The requested injunction is urgently needed to prevent this unconstitutional law from causing irreparable injury to plaintiffs and similarly-situated individuals.

With HB 87, Georgia has greatly overstepped its constitutional bounds. The law violates the Supremacy Clause of the Constitution by attempting to wrest core immigration regulation functions from the federal government and conflicting with federal law in multiple ways. As the President of the United States has publicly stated, HB 87 is "a mistake. . . . We can't have 50 different immigration laws around the country. Arizona tried this, and a federal court already struck them down." Obama criticizes new Georgia immigration law, Reuters, Apr. 26, 2011, attached as Ex. A to Decl. of Molly Lauterback; *see United States v. Arizona*, \_\_\_ F.3d \_\_\_, 2011 WL 1346945 (9th Cir. Apr. 11, 2011).

HB 87 runs afoul of other constitutional protections as well. Indeed, in its eagerness to single out and punish those it regards as "illegal aliens" the state has created a set of laws that violate the basic rights of citizens and non-citizens alike. HB 87 violates the Fourth Amendment because it authorizes detention without



sufficient legal justification. It violates the right to travel of residents of certain other states by treating them as “unfriendly aliens” in the State of Georgia. And it violates Georgia separation-of-powers requirements by allowing an executive officer to define the content of the state’s criminal laws.

All of the requirements for issuance of an injunction are met here. Plaintiffs respectfully request that the Court enjoin the enforcement of HB 87 pending a final ruling on this challenge.

### **FACTUAL BACKGROUND**

The Georgia General Assembly enacted HB 87 on April 14, 2011. Touted by its supporters as a comprehensive response to the perceived “very serious problem of illegal immigration in the State of Georgia,” (Deb. on HB 87 Before the Senate (Apr. 14, 2011), attached as Ex. B to Lauterback Decl. (remarks of Sen. Seth Harp)), HB 87’s provisions touch on numerous aspects of immigration—from broadly authorizing state immigration enforcement, to prescribing the immigration-related documentation persons must carry, to creating criminal prohibitions and penalties regulating the daily interactions that Georgians have with unauthorized immigrants, to instituting state-specific immigration-related requirements for participation in federal government programs, to directly provoking conflict with

foreign nations regarding their legitimate consular activities. Its most problematic provisions include the following.<sup>1</sup>

**Sections 8: Immigration Enforcement by State and Local Officers**

Section 8 authorizes Georgia peace officers to demand certain identity documents and to investigate the immigration status of persons unable to produce such a document, converting many routine encounters into lengthy and intrusive immigration status investigations. Under Section 8, officers are authorized to demand that any person subject to “any investigation”—*i.e.*, a consensual encounter, a stop, a detention, or an arrest—produce one of five enumerated types of identity documents. O.C.G.A. § 17-5- 100(b). Only individuals who can produce a document from this list receive a presumption of lawful status. *Id.*

The five state-approved identity documents enumerated in Section 8 are: (1) a “secure and verifiable document” as defined in Section 19 of HB 87; (2) a valid Georgia driver’s license; (3) a valid Georgia identification card; (4) a valid driver’s license from an entity requiring proof of legal presence or a valid identification

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<sup>1</sup> Section 17 and 18 of HB 87, which impose new requirements on applicants for federal public benefits as well as related penalties, conflict with federal law and are also problematic. Similarly, Section 19 imposes an explicit bar on the use of consular identification documents for any official purpose. Because the implementation of these provisions is delayed, and they do not take effect until January 2012, Plaintiffs do not address them in this motion, but intend to do so at a later time.

card issued by the federal government; or (5) a valid driver's license issued to a nonresident by her home state or country accompanied by proof of citizenship or legal residency. O.C.G.A. §§ 17-5-100(b)(1)-(5). The statute thus excludes reliance on driver's licenses issued by states such as New Mexico and Washington that do not require proof of legal presence. In cases where a person does not have a state-approved identity document, he may provide "[o]ther information . . . that is sufficient to allow the peace officer to independently identify [him]." O.C.G.A. § 17-5-100(b)(6). The law provides no guidance on what that "other information" might be and thus no direction for peace officers charged with enforcing it.

Where a person cannot provide a state-approved identity document or sufficient "other information," and an officer "has probable cause to believe that a suspect has committed a criminal violation," O.C.G.A. § 17-5-100(b), Section 8 authorizes the officer to "determine [the person's] immigration status" by "any reasonable means available," including by relying on: (1) a "federal identification data base"; (2) "[i]dentification methods authorized by federal law"; (3) electronic fingerprint readers or "similar devices"; or (4) "[c]ontacting an appropriate federal agency." O.C.G.A. § 17-5-100(c). These immigration status determination procedures are time intensive and will necessarily and unreasonably prolong ordinary police stops, including stops for speeding and jaywalking. And notably,

Section 8 does not require an officer to have any suspicion that an individual is in the country unlawfully before commencing an immigration status investigation.

Section 8 effectively requires all individuals in Georgia to carry a state-approved identity document in order to avoid the risk of extended police questioning each time they encounter law enforcement.

Section 8 also specifically authorizes peace officers to arrest and detain individuals solely based on suspicion that they are in violation of federal civil immigration laws. § 17-5-100(e). Thus, under HB 87, ordinary police will be authorized to make warrantless arrests for civil immigration violations.

### **Section 7: New State-Based Criminal Immigration Offenses**

Section 7 creates new state law crimes penalizing “transporting or moving an illegal alien,” O.C.G.A. § 16-11-200, “concealing or harboring an illegal alien,” § 16-11-201, and “inducing an illegal alien to enter into this state,” § 16-11-202. Federal law has long included provisions that address “[b]ringing in and harboring certain aliens.” 8 U.S.C. § 1324. Federal and state laws already grant Georgia law enforcement officers explicit authority to arrest anyone who violates these federal provisions. 8 U.S.C. § 1324(c); O.C.G.A. § 35-1-16(d). By enacting these new state immigration crimes, HB 87 effectively circumvents the federal government’s

definitions and prosecutorial and adjudicatory processes for these federal crimes, permitting Georgia state officers and prosecutors to impose their own views.

**Section 19: Restrictions on Identification Documents for Official Purposes**

Section 19 of HB 87 creates the “Secure and Verifiable Identity Document Act,” which defines certain documents as “[s]ecure and verifiable document[s]” that may be used for official purposes. O.C.G.A. § 50-36-2(a), (b)(3). The definition of a “[s]ecure and verifiable document” specifically excludes consular identification cards. *Id.* § 50-36-2(b)(3). Section 19 criminalizes accepting a document that is not “secure and verifiable” for “any official purpose.” O.C.G.A. § 50-36-2(d). It provides that, “on or after January 1, 2012, no agency or political subdivision shall accept, rely upon, or utilize an identification document for any official purpose that requires the presentation of identification . . . unless it is a secure and verifiable document.” Section 19 delegates to the Attorney General the authority to determine what constitutes a “secure and verifiable document.” O.C.G.A. § 50-36-2(b)(3) (“Only those documents approved and posted by the Attorney General . . . shall be considered secure and verifiable documents.”).

**ARGUMENT**

A preliminary injunction is appropriate if the moving party establishes the following: “(1) substantial likelihood of success on the merits; (2) irreparable

injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest.” *McDonald’s Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998).

## **I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS**

### **A. HB 87 Violates the Supremacy Clause**

HB 87 violates the Supremacy Clause of the U.S. Constitution in two ways: first, it is a state “regulation of immigration,” *DeCanas v. Bica*, 424 U.S. 351, 353-54 (1976), which is categorically prohibited because immigration regulation is exclusively a federal function; and second, it conflicts with federal law by “stand[ing] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress,” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). *See also Denson v. United States*, 574 F.3d 1318, 1345 (11th Cir. 2009), *cert. denied*, 130 S. Ct. 3384 (2010); *ABC Charters, Inc. v. Bronson*, 591 F. Supp. 2d 1272, 1303-04 (S.D. Fla. 2008).

#### **1. HB 87 Unconstitutionally Regulates Immigration**

A state law regulating immigration is unconstitutional, regardless of whether Congress has enacted comparable federal statutory provisions, because immigration regulation is “unquestionably *exclusively* a federal power.” *DeCanas*,

424 U.S. at 354 (emphasis added); *see Hines*, 312 U.S. at 66. The “determination of who should or should not be admitted into the country, and the conditions under which a legal entrant may remain” constitute direct regulation of immigration exclusively reserved for the federal government. *DeCanas*, 424 U.S. at 355; *see Toll v. Moreno*, 458 U.S. 1, 11 (1982); *Plyler v. Doe*, 457 U.S. 202, 225 (1982) (states may not engage in “classification of aliens”). Moreover, to withstand constitutional scrutiny a state law relating to immigration must primarily address legitimate local concerns and have only a “purely speculative and indirect impact on immigration.” *DeCanas*, 424 U.S. at 355. HB 87 is preempted under these standards for three independent reasons: because it is expressly intended to regulate immigration; because by its design and operation it actually regulates immigration; and because it directly interferes with the core federal interests that the rule against state immigration regulation is designed to protect.

1. HB 87’s plain and stated intent is to regulate immigration, as the law’s text and legislative history demonstrate. HB 87 is entitled the “Illegal Immigration Reform and Enforcement Act,” and its stated purposes include, for example, “to provide for offenses involving illegal aliens,” “to provide for the investigation of illegal alien status,” and “to provide for penalties for failure of agency heads to abide by certain state immigration laws” which are themselves established or

amended by HB 87. *See* Ga. House Bill 87 (2011) at 1:1, 7-8, 10, 27-28, attached as Ex. 1; *see Almendarez-Torres v. United States*, 523 U.S. 224, 234 (1998) (title of statute is a legitimate guide for legislative interpretation). The purpose and motivation behind HB 87 is to affect the “entry and stay,” *DeCanas*, 424 U.S. at 355, 359, of foreign nationals, especially those whom Georgia believes to be present without federal approval.

The legislative history of HB 87 confirms that it is specifically intended to take over immigration regulation from the federal government. The law originated from a “Special Joint Committee on Immigration Reform” that was “inspired by the federal government’s continued failure to deal with the problem of illegal immigration,” and sought to “pick[] up where Washington D.C. has let us down” by drafting legislation to “stem[] the flow of illegal immigration activity in Georgia.” Press Release, Speaker Ralston and Lt. Gov. Cagle Announce the Creation of the Special Joint Committee on Immigration Reform (Sept. 29, 2010), attached as Ex. C to Lauterback Decl.

Many legislators confirmed that they, too, view HB 87 as Georgia stepping into the federal government’s shoes.<sup>2</sup> Senator Seth Harp spoke at particular length:

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<sup>2</sup> For example, Senator Renee Unterman remarked that, with respect to comprehensive immigration regulation, “[u]nfortunately the federal government won’t step up to the plate; the states are having to do it.” Deb. on HB 87 Before



[I]f you look at the US Constitution there are precious few things that our federal government is supposed to do, but one of the things it is expressly commanded to do, is to secure our borders and provide for a common defense, and I submit to you, Ladies and Gentlemen of the Senate, that the federal government has failed miserably in that constitutional obligation it has abdicated its responsibility, they have walked off the job, and so what are we supposed to do? We're supposed to just throw up our hands and say "Well, the federal government is not exercising its responsibilities, so we are just going to suffer the consequences." At a certain point, you have to take action, and that's what happened in Arizona. . . . There is no question in my mind that adoption of this legislation is going to address in a meaningful way, the very serious problem of illegal immigration in the State of Georgia.

Deb. on HB 87 Before the Senate at p. 59-61, April 14, 2011;<sup>3</sup> see Press Release, Governor Deal, May 13, 2011, Ex. D to Lauterback (HB 87 "crack[s] down on the influx of illegal immigrants into our state" in absence of "a federal solution").

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the Senate at p. 32, Apr. 14, 2011. Representative Matt Ramsey, a sponsor of the bill, commented: "If we want to effectively address illegal immigration we can't wait for our federal government to act – we've got to do it ourselves." Deb. on HB 87 Before the House at p. 2, Mar. 3, 2011, attached as Ex. E to Lauterback Decl. Representative Rich Golick likewise remarked, "doing nothing is not an option and relying to our detriment on a federal government that is not going to do anything anytime soon is not a realistic alternative. . . . [W]hen we hear someone say it's a federal issue, let the federal government do it, that's really just a euphemism for do nothing and that's not an option at this point." Deb. on HB 87 Before the H. Comm. on the Judiciary at p. 33-34, Feb. 8, 2011, Ex. F to Lauterback Decl.

<sup>3</sup> Senator Harp was referring to Arizona's SB 1070, the major parts of which have never gone into effect because they have been enjoined by the federal courts. *United States v. Arizona*, \_\_ F.3d \_\_, 2011 WL 1346945, at \* 4-\*10, \*15-\*19 (9th Cir. Apr. 11, 2011) (*aff'g* 703 F. Supp. 2d 980 (D. Ariz. 2010)).

Representative Bobby Franklin further remarked: “I don’t see anything in the United States Constitution where the states authorize the federal government to have any policy on immigration. Which would mean under the Tenth Amendment that immigration is reserved to the states. Wouldn’t you agree, then, that immigration is a state issue, not a federal issue?” Deb. on HB 87 Before the H. Comm. on the Judiciary at p. 17, Feb. 8, 2011. This contention directly conflicts with settled law allocating immigration regulation authority to the federal government.

Thus, HB 87 was not intended to “further[] a legitimate state goal,” *Plyler*, 457 U.S. at 225, but rather was enacted as Georgia’s attempt to replace federal law and policy with state-crafted solutions.

2. HB 87’s impact on immigration is direct, not “incidental and speculative.” HB 87 subjects individuals in Georgia, including U.S. citizens and individuals in a lawful immigration status, to a new set of state-created immigration rules, legal interpretations, and procedures that do not exist in other states, including: (1) state-created requirements to carry certain documentation that establishes citizenship or immigration status; (2) state-authorized interrogations and detentions to investigate immigration status; (3) state and local officials’ judgments—independent of federal law, regulation, or policy—about

what immigration violations justify warrantless arrest; and (4) investigation and prosecution by state officials for state-defined immigration crimes. Thus, HB 87 directly regulates the conditions under which non-citizens may remain in the country—an exclusively federal function. *DeCanas*, 424 U.S. at 355-56; *see also Henderson v. Mayor of the City of New York*, 92 U.S. 259, 274-75 (1876) (enjoining statute imposing additional local regulations on immigrants); *Villas at Parkside Partners v. City of Farmers Branch*, 701 F. Supp. 2d 835, 855 (N.D. Tex. 2010) (invalidating ordinance requiring non-citizens to demonstrate immigration status prior to renting housing).

Indeed, HB 87 implements precisely what the Supreme Court struck down 70 years ago—the subjection of non-citizens to “indiscriminate and repeated interception and interrogation by public officials” and “the possibility of inquisitorial practices and police surveillance.” *Hines*, 312 U.S. at 66, 74.

3. HB 87’s demonstrated impact on foreign relations requires that it be held invalid. Historically, one of the main reasons that the federal government has exclusive power to regulate immigration is to prevent states from interfering with U.S. foreign relations through separate regulation of foreign nationals in the United States. *See Chy Lung v. Freeman*, 92 U.S. 275, 279 (1876); *Henderson*, 92 U.S. at 273; *see also Hines*, 312 U.S. at 64 (“Experience has shown that international

controversies of the gravest moment . . . may arise from real or imagined wrongs to another's subjects inflicted, or permitted, by a government.”). Such concerns are so paramount that “even . . . the likelihood that state legislation will produce something more than incidental effect in conflict with express foreign policy of the National Government would require preemption of the state law.”<sup>4</sup> *Am. Ins. Ass'n v. Garamendi*, 539 U.S. 396, 420 (2003); *see also United States v. Arizona*, \_\_\_ F.3d \_\_\_, 2011 WL 1346945, at \*22-23 (Noonan, J., concurring) (“Whatever in any substantial degree attempts to express a policy by a single state or by several states toward other nations enters an exclusively federal field.”). And the Supreme Court has recognized the “Nation’s need to ‘speak with one voice’ in immigration matters.” *Zadvydas v. Davis*, 533 U.S. 678, 700 (2001) (quoting Brief for the Respondents, *Zadvydas*, (No. 99-7791)); *Crosby v. Nat’l Foreign Trade Council*, 530 U.S. 363, 379 (2000) (finding state law imposing foreign trade restrictions preempted for “stand[ing] in the way of Congress’s diplomatic objectives”).

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<sup>4</sup> Even individual immigration enforcement decisions can have profound implications for U.S. foreign policy interests. *See Quinchia v. U.S. Att’y Gen.*, 552 F.3d 1255, 1259 (11th Cir. 2008) (“[I]mmigration cases often involve complex public and foreign policy concerns with which the executive branch is better equipped to deal.”); Decl. of James B. Steinberg ¶¶ 19, 21, filed in *United States v. Arizona*, No. 10-CV-1413 (D. Ariz. filed July 6, 2010), Ex. G to Lauterback Decl.

Here, such implications are real. Foreign governments have expressed concerns that this law will significantly strain diplomatic relations with the United States. In a press release, the Mexican government criticized HB 87, stating that the law “potentially affects human and civil rights of Mexicans who live in or visit Georgia” and that “[t]he legislators who voted for the law and the Governor of Georgia overlooked the many contributions made by the immigrant community to the state’s economy and society, as well as Mexico’s importance as its third-largest export market.” *The Mexican Government Regrets the Enactment of HB 87 in Georgia*, Press Release, May 13, 2011, Mexico City, attached as Ex. H to Lauterback Decl.; *see* Decl. of Abraham F. Lowenthal ¶¶ 11-14, attached as Ex. 2. Such statements reflect the unacceptable strain that HB 87 puts on the United States’ relations with foreign nations.

That strain is one reason for the President of the United States’ declaration that “[w]e can’t have 50 different immigration laws around the country” and his specific condemnation of HB 87 as a “mistake.” *See* Ex. A to Lauterback Decl. HB 87 intrudes on exclusively federal terrain and must be enjoined.

## **2. HB 87 Unconstitutionally Conflicts with Federal Law**

HB 87 is also preempted on the additional ground that it conflicts with federal immigration law. A state law conflicts with federal law when “ ‘the state

law stands as an obstacle to the accomplishment of the full purposes and objectives' of federal law.” *Boyes v. Shell Oil Prods. Co.*, 199 F.3d 1260, 1269 (11th Cir. 2000) (quoting *Silkwood v. Kerr-McGee Corp.*, 464 U.S. 238, 248 (1984)). And even if the state and the federal government share the same concerns, “[t]he fact of a common end hardly neutralizes conflicting means” of addressing those concerns. *Crosby*, 530 U.S. at 379. Under the INA, 8 U.S.C. § 1101 *et seq.*, Congress has set forth a comprehensive system of immigration laws, regulations, procedures, and policies under which the federal government regulates many of the exact topics covered by HB 87. The Georgia law directly conflicts with this comprehensive federal scheme by: (1) superseding federal limitations on the authority of state and local officers to enforce immigration laws, (2) creating new immigration crimes defined and enforced by the state, (3) implementing a *de facto* state alien registration law, and (4) placing an impermissible burden on federal resources and creating obstacles to the accomplishment of federal priorities.<sup>5</sup>

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<sup>5</sup> By enacting the Immigration and Nationality Act, Congress has occupied the entire field of immigration enforcement, and thus HB 87 is also subject to statutory “field preemption,” which “occurs when federal regulation in a legislative field is so pervasive that we can reasonably infer that Congress left no room for the states to supplement it.” *Pace v. CSX Transp., Inc.*, 613 F.3d 1066, 1068 (11th Cir. 2010).

**a. HB 87 Conflicts with Federal Limitations on State and Local Officers' Authority to Enforce Immigration Laws**

HB 87 broadly authorizes Georgia peace officers to act as immigration agents in direct conflict with federal mandates and limitations.

Federal law contains narrow authorizations for state and local police to enforce federal immigration laws in specific circumstances. First, federal law authorizes state and local officers to enforce two specific criminal immigration offenses. Under 8 U.S.C. § 1252c, state and local officers may arrest and detain a non-citizen for the federal crime of illegal reentry by a deported felon into the United States, if the federal government provides “appropriate confirmation” of the suspect’s status. And under 8 U.S.C. § 1324(c), federal law allows state and local officers to make arrests for the *federal* immigration crimes of transporting, smuggling, or harboring certain aliens.

Second, Congress has authorized state and local officers to assist with the enforcement of civil immigration offenses in only two specific circumstances. The U.S. Attorney General may authorize “any State or local enforcement officer” to enforce immigration laws upon certification of “an actual or imminent mass influx of aliens.” 8 U.S.C. § 1103(a)(10). (This provision has never been invoked by the Attorney General.) Additionally, under 8 U.S.C. § 1357(g)(1), the federal

government may enter into written agreements (*i.e.*, “287(g) agreements”) with state or local agencies in order for certain designated officers to exercise delegated immigration enforcement authority in clearly specified circumstances. These officers must first be “determined by the Attorney General to be qualified to perform [such] functions” and “shall be subject to the direction and supervision of the Attorney General.” §§ 1357(g)(1), (3). The written agreement must specify “the specific powers and duties that may be, or are required to be, exercised or performed by the individual, [and] the duration of the authority of the individual.” § 1357(g)(5).<sup>6</sup>

HB 87 goes beyond any Congressional authorization to enforce civil immigration laws by allowing officers to broadly detain and arrest individuals for the civil violation of unlawful presence.<sup>7</sup> HB 87 authorizes peace officers to

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<sup>6</sup> 8 U.S.C. § 1357(g)(10) further provides that § 1357(g) does not forbid police from “cooperat[ing] with the Attorney General” in certain aspects of immigration enforcement. That provision plainly does not authorize states to pursue their own policy objectives or enact their own immigration enforcement initiatives that correct the federal government’s alleged failures, as Georgia has here. Indeed, if § 1357(g)(10) authorized the enforcement at issue here, the specific authorizations Congress provided in §§ 1103(a)(10), 1357(g)(1)-(9), 1252c, and 1324(c) would be surplusage. As the Ninth Circuit has explained, “Congress intended for state officers to aid in federal immigration enforcement only under particular conditions, including the Attorney General’s supervision.” *United States v. Arizona*, 2011 WL 1346945, at \*5.

<sup>7</sup> Being present in the United States without lawful immigration status is not a crime. *Martinez-Medina v. Holder*, \_\_\_ F.3d \_\_\_, 2011 WL 855791, at \*6 (9th Cir.



prolong detentions and undertake custodial immigration investigations when individuals cannot produce a state-approved identity document. O.C.G.A. § 17-5-100(b). Section 8 further authorizes peace officers to arrest without warrant anyone they determine to be an “illegal alien.” O.C.G.A. § 17-5-100(e). But under federal law, state and local officers are not authorized to detain individuals on such grounds.<sup>8</sup> Thus, even if a peace officer has received verification from the federal government that a person appears to lack immigration status, the officer may not detain the person solely on that basis.<sup>9</sup>

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Mar. 11, 2011) (“unlike illegal entry, which is a criminal violation, an alien’s illegal presence in the United States is only a civil violation”); *United States v. Madrigal-Valadez*, 561 F.3d 370, 376 (4th Cir. 2009) (no “authority . . . makes the *status* of being in the United States after entering in violation of § 1325(a) a separate crime”) (emphasis in original); *United States v. Encarnacion*, 239 F.3d 395, 399 (1st Cir. 2001) (defendant’s admission of illegal entry to INS officials did not transform his case from a civil to a criminal case).

<sup>8</sup> See *United States v. Arizona*, 2011 WL 1346945, at \*17 (“states do not have the inherent authority to enforce the civil provisions of federal immigration law.”); *Gonzales v. City of Peoria*, 722 F.2d 468, 474 (9th Cir. 1983), *overruled on other grounds by Hodgers-Durgin v. De la Vina*, 199 F.3d 1037 (9th Cir. 1999); *United States v. Urrieta*, 520 F.3d 569, 574 (6th Cir. 2008) (“local law enforcement officers cannot enforce completed violations of civil immigration law (*i.e.*, illegal presence) unless specifically authorized to do so by the Attorney General under special conditions”).

<sup>9</sup> HB 87 is preempted even as to the few Georgia agencies that have 287(g) agreements—the Cobb, Gwinnett, Hall, and Whitfield County Sheriff’s Offices and the state Department of Public Safety. For these agencies, HB 87 improperly creates a source of immigration enforcement authority distinct from the 287(g) agreement and outside of the direction and supervision of federal authorities.

Indeed, Section 8's immigration enforcement authorization is so broad that it permits peace officers to make warrantless civil immigration arrests in circumstances where even *federal* immigration agents could not. *See* 8 U.S.C. § 1357(a)(2). In order to arrest an individual for undocumented presence without a warrant, the arresting federal officer must reasonably believe that the alien is in the country illegally *and* that he is likely to escape before a warrant can be obtained for his arrest. *Id.* HB 87 does not provide these limitations and thus allows for the arrests of non-citizens in circumstances where federal law requires a warrant.

The dangers of HB 87's unconstitutional immigration scheme are particularly acute for the many non-citizens who lack immigration status, and whose continued presence technically violates federal immigration law, yet are allowed to remain in the United States with the knowledge and consent of the federal government. Jane Doe #2 illustrates the problem: she lacks immigration status, but remains in the United States through the favorable exercise of discretion by federal officials in light of the compelling circumstances of her case, including the fact that she came to the country as a child and that Georgia is the only home that she has ever known. Decl. of Jane Doe #2 ¶¶ 2, 6-8, attached as Ex. 3. Although the federal government would have no interest in arresting Jane Doe #2, federal agents could not, if asked, truthfully tell a Georgia peace officer that she is

in a lawful status. HB 87 authorizes that peace officer to arrest Jane Doe #2 on immigration grounds without a warrant and without regard to the fact that the federal government has already declined to seek her removal.

Because of the structure and operation of federal immigration law, there are countless individuals in Georgia who are in a similar position because they are presently not in lawful status, but are eligible for a form of immigration relief, such as asylum, adjustment of status, or withholding of removal—relief which is fundamental to the proper administration of federal immigration laws. Some of these individuals are known to the federal government; others will not be identified until they are actually placed in proceedings by the federal government and their cases are adjudicated. HB 87 is an obstacle to the functioning of this federal statutory scheme.

**b. HB 87 Creates New State Immigration Crimes In Conflict With Federal Law**

Section 7 creates three new Georgia-specific immigration crimes: knowingly (1) transporting or moving an illegal alien for the purpose of furthering their illegal presence, O.C.G.A. § 16-11-200; (2) concealing, harboring, or shielding an illegal alien from detection, § 16-11-201; and (3) inducing, enticing,

or assisting an illegal alien to enter into Georgia, § 16-11-202.<sup>10</sup> These new provisions impermissibly interfere with the operation of federal immigration law.

Section 1324 of Title 8 of the U.S. Code defines several federal offenses that appear superficially similar to the new state offenses created by Section 7. The federal crimes in § 1324 include knowingly “transport[ing] . . . within the United States,” “conceal[ing], harbor[ing], or shield[ing] from detection,” or “encourage[ing] or induc[ing] . . . to come to, enter, or reside in the United States” an alien whose entry or presence violates the law.

The superficial resemblance of Section 7 to 8 U.S.C. § 1324 masks significant differences between the state and federal laws. For example, § 1324’s “encourage or induce” provisions concern aliens entering the United States—*not* the movement of non-citizens within the United States; but O.C.G.A. § 16-11-202 criminalizes “induc[ing], entic[ing], or assist[ing]” an “illegal alien” to enter the state of Georgia, regardless of whether the state is the alien’s first destination in the country or whether she entered the United States twenty years ago in California.

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<sup>10</sup> The Georgia crimes also require that the accused be acting “in violation of another criminal offense” or “while committing another criminal offense.” In many cases the additional offense may be another crime created by Section 7 itself: for example, a person transporting an undocumented individual from another state into Georgia may be simultaneously violating §§ 16-11-200 and -202, and under the state law’s broad definition of “harboring,” -201 as well. Moreover, a variety of other minor criminal offenses, including commonplace traffic offenses, would suffice to satisfy this element of the definition.

Similarly, § 1324's "harboring" provision is the topic of extensive analysis and interpretation in the federal courts, *see, e.g., Hall v. Thomas*, 753 F. Supp. 2d 1113, 1159 (N.D. Ala. 2010), but Section 7 specifically defines "harboring" as "any conduct that tends to substantially help an illegal alien to remain in the United States in violation of federal law," with limited exceptions determined by the Georgia legislature. O.C.G.A. § 16-11-201(a)(1).

The most meaningful difference between HB 87 and the federal law that it pays lip service to imitating is not, however, any of the multiple specific differences in the provisions at issue, but the very creation of a separate and independent state system of criminal immigration laws. These state laws will be enforced by state police and prosecutors and interpreted by state judges—not by their federal counterparts. Under HB 87, decisions about when to charge a person or what penalty to seek for this conduct would not longer be under control of the federal government. HB 87 includes no provision for federal discretion and no mechanism to accommodate the immense complexity of federal immigration law. Section 7's resemblance to § 1324 does not make it a "mirror" of federal law. *Cf.*

*Plyler*, 457 U.S. at 225. Instead, it allows the state to challenge and “undermine[] the congressional calibration” of federal law and policy.<sup>11</sup> *Crosby*, 530 U.S. at 380.

For example, plaintiff David Kennedy, an immigration lawyer in Gainesville, Georgia, frequently meets with and gives legal advice to individuals who are undocumented and occasionally drives these individuals to immigration court hearings. Decl. of David Kennedy ¶¶ 2-9, attached as Ex. 4. He serves a vital role in the federal immigration system by representing parties in administrative proceedings and does not fear prosecution under § 1324. But HB 87 appears to specifically target immigration lawyers: it exempts an “attorney or his or her employees for the purpose of representing a *criminal defendant*,” and conspicuously does not exempt an immigration attorney or other civil attorney, from the definition of the state harboring crime created in O.C.G.A. § 16-11-201. In putting Kennedy and other immigration lawyers at risk of prosecution, HB 87 interferes with the proper administration of federal immigration law and the rights of individuals in the federal system to counsel (at their own expense).

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<sup>11</sup> The federal government frequently does not prosecute potential § 1324 violations. For example, from 2001 to 2005 there were, on average, only 10 reported prosecutions under §1324 in Georgia each year, while in 2005 – the latest year for which plaintiffs have been able to obtain statistics—there were only five prosecutions for such conduct. Transactional Records Access Clearinghouse, Percent of Immigration Criminal Convictions by Lead Charge (2006), available at <http://trac.syr.edu/tracins/findings/05/criminal/glawgph05.html>.

Likewise, plaintiff Paul Bridges, the Mayor of Uvalda, Georgia, would be criminally liable for providing Spanish-to-English translation services for his friends at church, the grocery store, the doctor's and dentist's office, and soccer tournaments. Decl. of Paul Bridges ¶¶ 2, 6-10, attached as Ex. 5. He, along with plaintiffs Benjamin Speight, Everitt Howe, Paul J. Edwards, and Sharon Gruner, could face criminal consequences for giving rides to their friends, neighbors, and fellow parishioners. Decl. of Benjamin Speight ¶¶ 6-7, attached as Ex. 6; Everitt Howe ¶¶ 5-7, attached as Ex. 7; Paul Edwards ¶¶ 4-8, attached as Ex. 8; Sharon Gruner ¶¶ 3-7, attached as Ex. 9. Those same criminal consequences would apply to Jane Doe #1, who drives her husband to doctor's appointments and physical therapy following an incapacitating injury that he suffered. Decl. of Jane Doe #1 ¶ 3, attached as Ex. 10. For inviting friends into their homes and providing them with a place to stay, Plaintiffs Bridges and Gruner likewise are at risk of criminal prosecution. Bridges Decl. ¶ 15; Sharon Gruner Decl. ¶ 6.

In this way, Section 7 amounts to a scheme for determining and punishing unlawful presence in the state through the operation of state criminal laws. As discussed above, the conditions and penalties associated with the entry into and continued presence of non-citizens in the United States are constitutionally reserved to the federal government. *DeCanas*, 424 U.S. at 359. Yet, Section 7's

criminalization of routine and innocuous conduct is at odds with Congress's careful choices in federal immigration law and the federal government's use of its discretion to employ these statutes in a way that is harmonious with, rather than destructive of, the overall statutory scheme. *See ABC Charters, Inc.*, 591 F. Supp. 2d at 1301 (“What is a sufficient obstacle is determined by examining the federal statute and identifying its purpose and intended effects.”).

It is worth emphasizing that under § 1324, Georgia law enforcement officers already have the authority to arrest individuals for violation of that federal law. If Georgia really wanted simply to enforce federal law in this area, it could arrest violators and turn them over to the federal government for prosecution. But Georgia has decided, instead, to create its own independent state crimes to be administered in its own state system, out of apparent dissatisfaction and disagreement with federal law. The Supremacy Clause permits no such unilateral state vetoes. And “the threat of 50 states layering their own immigration enforcement rules on top of the INA also weighs in favor of preemption.” *United States v. Arizona*, \_\_\_ F.3d \_\_\_, 2011 WL 1346945, at \*10 (9th Cir. Apr. 11, 2011); *see, e.g., French v. Pan Am Express, Inc.*, 869 F.2d 1, 6 (1st Cir. 1989) (If the states were free to regulate in the area of aviation, “a patchwork of state laws . . . some in conflict with each other, would create a crazyquilt effect.”); *Sprint Corp.*



*v. Evans*, 818 F. Supp. 1447, 1457-58 (M.D. Ala. 1993) (“To allow each state to impose its own duties and requirements governing the interstate transmission of material by common carriers would result in precisely the type of piecemeal regulation that Congress wanted to avoid in passing the Act.”).

**c. HB 87’s *De Facto* Alien Registration Law Conflicts With Federal Law and Will Result in Unlawful Harassment of Lawfully Present Aliens**

Section 8 effectively requires all individuals who are stopped on suspicion of any criminal activity (including traffic violations and other misdemeanors) to produce a document that presumptively establishes lawful presence in the United States. O.C.G.A. § 17-5-100(b). By requiring individuals to present one of these specified documents, Georgia has created its own alien registration system. *Cf.* 8 U.S.C. § 1304(d) (federal alien registration statute). HB 87 effectively requires all individuals in Georgia to carry a state-approved identity document in order to avoid extended police questioning each time they encounter law enforcement. Those who do not possess or do not happen to be carrying one of the identity documents preferred by Georgia will be treated as suspected illegal aliens and at risk of prolonged detention.

The Supreme Court has already held that state alien registration and documentation schemes are broadly preempted. In *Hines*, the court invalidated

Pennsylvania's Alien Registration Act, which required, among other things, that every alien 18 years or over to receive a state alien identification card, carry it at all times, and show the card whenever it may be demanded by an officer. 312 U.S. at 56. The Court found that,

Having the constitutional authority so to do, [Congress] has provided *a standard for alien registration in a single integrated and all-embracing system* in order to obtain the information deemed to be desirable in connection with aliens. When it made this addition to its uniform naturalization and immigration laws, it plainly manifested *a purpose to do so in such a way as to protect the personal liberties of law-abiding aliens through one uniform national registration system, and to leave them free from the possibility of inquisitorial practices and police surveillance.*

*Id.* at 74 (emphasis added).

HB 87's *de facto* documentation requirement is particularly problematic because many foreign nationals who reside in the United States with the permission of the United States do not possess or have readily available documentation that is acceptable under HB 87. These categories of foreign nationals include those with deferred action, such as Plaintiff Jane Doe #2, travelers visiting from countries participating in the Visa Waiver Program, and individuals with temporary protected status or who have applied for visas as victims of crimes. Jane Doe #2 Decl. ¶ 6; Decl. of Michael Aytes ¶¶ 17, 19, 21, filed in *United States v. Arizona*, 10-CV-1413 (D. Ariz. filed July 7, 2010) (copy

attached as Ex. I to Lauterback Decl.). The number of individuals in these situations is significant. In fiscal year 2009, more than 14 million aliens were admitted under the Visa Waiver Program, Decl. of David V. Aguilar ¶ 24, filed in *United States v. Arizona*, No. 10-CV-1413 (D. Ariz. filed July 6, 2010) (copy attached as Ex. J to Lauterback Decl.), and DHS estimates that up to 200,000 individuals were eligible for temporary protected status based solely on the designation of Haiti due to last year's earthquake, Steinberg Decl. ¶ 19. Such increased police intrusion into the lives of these lawfully present aliens, among others, is impermissible. *See DeCanas*, 424 U.S. at 358, n.6 (“Of course, state regulation not congressionally sanctioned that discriminates against aliens lawfully admitted to the country is impermissible if it imposes additional burdens not contemplated by Congress.”).

**d. HB 87 Places an Impermissible Burden on Federal Resources and Interferes With Federal Immigration Enforcement**

HB 87 is also preempted because it imposes an impermissible burden on federal resources that creates “obstacle[s] to the accomplishment and execution of the full purposes and objectives of Congress.” *Hines*, 312 U.S. at 67; *see Egelhoff v. Egelhoff ex rel. Breiner*, 532 U.S. 141, 150 (2001) (holding that “differing state regulations affecting an ERISA plan’s ‘system for processing claims and paying

benefits’ impose ‘precisely the burden that ERISA pre-emption was intended to avoid.’”) (quoting *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1, 10 (1987)).

Sections 8 and 13 will directly undermine federal immigration enforcement priorities by vastly increasing the number of immigration status verification queries to the federal government. In addition to the immigration queries authorized by Section 8, Section 13 mandates that a verification request be submitted to the federal government for every suspected foreign national—regardless of whether they are suspected to be unlawfully present or not—who is confined for any period of time in a county or municipal jail and who does not have documents on hand to establish immigration status. O.C.G.A. § 42-4-14(c). As discussed above, a large number of foreign nationals will be unable to readily demonstrate their lawful status, and HB 87 authorizes an immigration investigation that includes querying the federal government in each of these cases.

HB 87’s across-the-board approach to immigration enforcement thus undermines the federal government’s ability to focus on its priorities, including the apprehension of the most dangerous aliens. Decl. of David C. Palmatier ¶ 18, filed in *United States v. Arizona*, No. 10-CV-1413 (D. Ariz. filed July 6, 2010) (copy attached as Ex. K to Lauterback Decl.); Decl. of Daniel H. Ragsdale ¶ 41, filed in *United States v. Arizona*, No. 10-CV-1413 (D. Ariz. filed July 7, 2010) (copy

attached as Ex. L to Lauterback Decl.). The federal Law Enforcement Support Center (“LESC”), which is responsible for responding to immigration status queries from law enforcement agencies, has experienced “continuous and dramatic increases” in immigration status determination queries over the past four years. Palmatier Decl., ¶ 9. The verification process at the LESC is time-intensive and takes, on average, over 80 minutes even for simpler cases. *Id.* at ¶ 8. In some cases, where a review of the individual’s physical file is required, the review may take two days or more. *Id.* at ¶ 11. In addition, the LESC is unable to verify the status of most U.S. citizens, since their records are not contained in the LESC databases. *Id.* at ¶ 19. The additional queries created by HB 87, combined with the already time-intensive verification process, will necessarily strain the federal government’s resources.

Following congressional guidance, the “LESC [has] prioritize[d] its efforts in order to focus on criminal aliens and those most likely to pose a threat to their communities,” and the increase in requests attributable to HB 87 creates a significant risk that the federal government will be forced to shift resources away from its priorities. Palmatier Decl. ¶ 7. Like the enjoined provisions of Arizona’s SB 1070, HB 87 “is inconsistent with the discretion Congress vested in the

Attorney General to supervise and direct State officers in their immigration work according to federally-determined priorities.” *Arizona*, 2011 WL 1346945, at \*8.

Finally, the Court should consider the cumulative impact of other states passing similar legislation. *See, e.g., Bonito Boats v. Thunder Craft Boats*, 489 U.S. 141, 161 (1989) (considering “[t]he prospect of all 50 States establishing similar [rules]” in finding law preempted); *accord North Dakota v. United States*, 495 U.S. 423, 458 (1990) (Brennan J., concurring in part and dissenting in part) (finding state legislation preempted in part because difficulties presented “would increase exponentially if additional States adopt equivalent rules” and noting that such a nation-wide consideration was found “dispositive” in *Pub. Utils. Comm’n of Cal.*, 355 U.S. 534, 545-46 (1958)). This concern is far from speculative. Georgia is the fourth state to have passed far-reaching immigration enforcement measures and a fifth, Alabama, has now followed suit. Although the similar state laws that preceded HB 87 are either currently enjoined or not yet in effect, the actual implementation individually and, in particular, when aggregated, will further burden the federal government’s immigration priorities. *Palmatier Decl.* ¶ 7.

#### **B. HB 87 Violates the Fourth Amendment**

Section 8 authorizes the prolonged detention of individuals solely to verify their immigration status, based on their failure to produce a state-approved identity

document—conduct which does not provide suspicion of, or probable cause to believe a person is engaged in any unlawful conduct. By allowing such detention without suspicion of wrongdoing, much less criminal activity, Section 8 violates the Fourth Amendment.

**1. The Immigration Status Investigations Authorized By HB 87 Will Cause Unlawful Detentions**

Bedrock Fourth Amendment law permits a brief investigatory stop if an officer has “a reasonable suspicion supported by articulable facts that criminal activity may be afoot.” *United States v. Sokolow*, 490 U.S. 1, 7 (1989) (citing *Terry v. Ohio*, 392 U.S. 1, 30 (1968)). The stop, however, “must be limited to the time necessary to effectuate the purpose of the stop.” *United States v. Pruitt*, 174 F.3d 1215, 1220 (11th Cir. 1999). Once the purpose of the initial stop has been effectuated, the stop “may not last ‘any longer than necessary to process the [original] violation’ unless there is articulable suspicion of other illegal activity.” *United States v. Purcell*, 236 F.3d 1274, 1277 (11th Cir. 2001) (citing *United States v. Holloman*, 113 F.3d 192, 196 (11th Cir. 1997)); *see also Muehler v. Mena*, 544 U.S. 93, 100-01 (2005) (holding that officers may ask questions unrelated to the original purpose of the stop as long as such questioning does not unreasonably prolong the stop).

Section 8 provides that when an officer stops an individual based on probable cause to believe the person is engaged in criminal activity, if the person fails to provide the officer with a state-approved identity document that HB 87 deems to be sufficient proof of immigration status, the officer may, based only on the lack of such a document, investigate and “determine” the person’s immigration status. O.C.G.A. § 17-5-100(b).

HB 87 does not set any time limits on the immigration status investigations that it authorizes, and these investigations are generally lengthy.<sup>12</sup> On average, ICE takes more than 80 minutes to provide a response to an officer via telephone. Palmatier Decl. ¶ 8. Additionally, immigration status inquiries to ICE do not necessarily provide accurate or definite results. For example, in Arizona almost 10,000 of the 80,000 request for immigration status verification received during 2009 produced an indeterminate answer, which would require DHS to search additional databases and even paper files in an attempt to resolve the inquiry.<sup>13</sup> See Palmatier Decl. ¶¶ 12, 19.

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<sup>12</sup> Section 8 authorizes an officer to “determine immigration status” by “any reasonable means available,” including by relying on: (1) a “federal identification data base”; (2) “[i]dentification methods authorized by federal law”; (3) electronic fingerprint readers or “similar devices”; or (4) “[c]ontacting an appropriate federal agency.” O.C.G.A. § 17-5-100(c).

<sup>13</sup> Where a database search is inconclusive, it may take up to two days to conduct a search through paper files. Palmatier Decl. ¶ 11. Additionally, either a database or



Thus, in many cases, and especially in those numerous encounters that otherwise ordinarily would be resolved with a citation or warning from a police officer, *see* Decl. of George Gascón ¶ 14, attached as Ex. 11; Decl. of Eduardo Gonzalez ¶ 15, attached as Ex. 12; Decl. of Lewis Smith ¶ 14, attached as Ex. 13, the immigration status investigation authorized by HB 87 will be the *only* basis for continuing to detain a person for a significant period of time. By allowing such detentions without additional suspicion of any unlawful conduct, Section 8 violates the Fourth Amendment. *See, e.g., United States v. Tapia*, 912 F.2d 1367, 1370 (11th Cir. 1990) (finding that officer's further investigation of a lawfully stopped driver unlawfully prolonged the detention because of lack of suspicion of criminal activity beyond a speeding citation).

**2. HB 87's Documentation Requirement Cannot Substitute for a Probable Cause Determination**

Critically, the lack of a state-approved identity document does not give rise on its own to any suspicion of unlawful activity. Gonzalez Decl. ¶ 15; Gascón Decl. ¶ 14. While in Georgia it is unlawful to drive without a valid driver's license, O.C.G.A. § 40-5-20, HB 87 does not limit prolonged investigation and

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paper file search may not produce any definitive information or any information at all, especially for many U.S. citizens. The fact that a person does not appear in ICE databases could equally mean either that the person is a U.S. citizen or is a non-citizen who entered without inspection, depending on whether the person was born in the United States. *Id.* ¶ 12.

detention to that circumstance. Gonzalez Decl. ¶ 16; Gascón Decl. ¶ 9. For example, persons driving in Georgia with a valid New Mexico or Washington driver's license (which are issued pursuant to those states' laws without a requirement of evidence of lawful immigration status), including Lawful Permanent Residents or U.S. citizens like Plaintiffs Singh and Piñon, would be unable to produce a state-approved identity document when stopped. Decl. of Ernesto Piñon ¶ 7, attached as Ex. 14; Decl. of Jaypaul Singh ¶ 4, attached as Ex. 15. Similarly, pedestrians and passengers in vehicles are not required by law to carry any identification document, but would be subject to additional investigation under Section 8 if they do not possess or have on them a state-approved identity document. As a result, HB 87 subjects even U.S. citizens and lawful immigrants to prolonged detention pending immigration status verification. Gonzalez Decl. ¶ 15; Gascón Decl. ¶ 15.

As discussed above in Section I(A)(2)(c), many foreign nationals authorized to be in the United States do not possess or have readily available qualifying identity documents required under § 17-5-100(b)(1-5), or any other documentation that would demonstrate their immigration status, such as to prevent being subjected to additional investigation under Section 8. For example, Plaintiff Jane Doe #2's presence in the United States is known to the federal authorities and while she has

no formal immigration status, federal authorities have decided to allow her to remain in the United States until at least May 2012 through deferred action.

However, she does not possess paperwork documenting her situation. Jane Doe #2 Decl. ¶ 7. Individuals like her would be subject to prolonged detention under HB 87, even though they are not subject to immediate removal by federal authorities and there is no evidence of criminal activity justifying any additional investigation.

### **3. The Practical Effects of HB 87's Arrest Provisions are Serious**

HB 87 will cause widespread and significant Fourth Amendment violations if allowed to go into effect. Section 8's authorization for police to undertake immigration investigations applies to situations in which an officer has probable cause to believe a person is committing any criminal violation, regardless of how minor. Gonzalez Decl. ¶ 15; Gascón Decl. ¶ 14. In Georgia, all traffic violations, including minor violations such as speeding, failure to properly signal a turn, or jaywalking, are criminal violations. *See generally* Georgia Code Title 40.

Therefore, a wide variety of traffic violations will become occasions for unlawfully prolonged detention to investigate immigration status if HB 87 goes into effect.

#### **C. HB 87 Violates the Constitutional Right to Travel**

By subjecting individuals traveling in Georgia to prolonged stops if they do not have a qualifying identity document, even if they have valid driver's licenses,

HB 87 violates the fundamental right to travel. The Supreme Court has long “recognized that the nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement.” *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969), *overruled on other grounds by Edelman v. Jordan*, 415 U.S. 651 (1974). The Supreme Court has repeatedly held that the right is fundamental. *Att’y Gen. of N.Y. v. Soto-Lopez*, 476 U.S. 898, 902-03 (1986) (plurality). A state law infringes on the right to travel if it uses “ ‘any classification which serves to penalize the exercise of that right’ ” even in an “indirect manner,” *Soto-Lopez*, 476 U.S. at 903 (quoting *Dunn v. Blumstein*, 405 U.S. 330, 340 (1972)), or treats residents of other states as “unfriendly alien[s]” rather than “welcome visitor[s],” *Saenz v. Roe*, 526 U.S. 489, 500 (1999). If either condition is met, the law must be analyzed under strict scrutiny and invalidated unless the state can satisfy the “heavy burden of proving that it has selected a means of pursuing a compelling state interest which does not impinge unnecessarily on constitutionally protected interests.” *Soto-Lopez*, 476 U.S. at 911.

HB 87, on its face, burdens and penalizes certain out-of-state travelers’ exercise of the right to travel. As discussed above, Section 8 allows a peace officer

to verify an individual's immigration status when the individual is unable to produce "a valid Georgia driver's license" or certain other documents that "require[] proof of legal presence in the United States before issuance." O.C.G.A. § 17-5-100(b).<sup>14,15</sup> Many people travel with a valid driver's license as their only form of identification, yet some states—currently New Mexico and Washington—issue driver's licenses without requiring proof of federal immigration status.<sup>16</sup> Thus, although Georgians can use their driver's licenses to avoid an immigration determination, travelers from certain other states, including people from New Mexico and Washington, such as Plaintiffs Piñon and Singh, cannot use their valid state driver's licenses for the same purpose. Instead, those out-of-state travelers will face additional scrutiny by Georgia peace officers and will be effectively

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<sup>14</sup> In order to receive a driver's license in Georgia, individuals must demonstrate that they are "either a United States citizen or an alien with legal authorization from the U.S. Immigration and Naturalization Service." O.C.G.A. § 40-5-1(15).

<sup>15</sup> Although Section 8 contains an exception if a person provides other information sufficient for an officer to independently identify them, O.C.G.A. § 17-5-100(b)(6), Section 8 provides no guidance on what information suffices under this section and entrusts such determinations entirely to an officer's discretion, leaving individuals who do not have adequate identification at constant risk of detention.

<sup>16</sup> N.M. Stat. Ann. § 66-5-9(B) (1978); N.M. Admin. Code § 18.19.5.12(D) (allowing foreign national to obtain driver's license with federal tax identification number and valid foreign passport or Matricula Consular card); Wash. Rev. Code § 46.20.035(3) (allowing use of "other available documentation," on a discretionary basis, for issuance of driver's license); Lauterback Decl. Ex. M (Washington Department of Licensing rules allowing issuance of driver's license if resident provides valid foreign passport or other identification).

required to obtain and carry additional documentation acceptable under HB 87 while traveling in Georgia. *See* Singh Decl. ¶¶ 2, 5; Piñon Decl. ¶¶ 2, 7. This burden will force Plaintiff Singh to limit his driving in Georgia if HB 87 takes effect. *See* Singh Decl. ¶ 6. Although the right to travel does not guarantee access to any “single mode of transportation,” *John Doe No. 1 v. Ga. Dep’t of Pub. Safety*, 147 F. Supp. 2d 1369, 1375 (N.D. Ga. 2001), HB 87’s burden on travelers from Washington and New Mexico applies regardless of mode of travel and in fact reaches beyond transportation. According to its plain language, Section 8 applies to any peace officer investigation, whether the investigation occurs on MARTA, on the sidewalk, following a routine traffic stop, or in someone’s home. O.C.G.A. § 17-5-100; *see also* Singh Decl. ¶ 4.

While frequently invoked with regard to residency requirements, *see, e.g., Shapiro*, 394 U.S. at 622, the right to travel reaches more broadly than simply guaranteeing access to benefits for new residents to a state. *See, e.g., Austin v. New Hampshire*, 420 U.S. 656, 666-67 (1975) (striking down tax that discriminatorily applied to out-of-state commuters); *Bigelow v. Virginia*, 421 U.S. 809, 824 (1975) (prohibiting ban on advertising abortion services that required out-of-state travel). Rather, it has long been recognized that the right to travel guarantees that “all citizens of the United States . . . must have the right to pass and

repass through every part of [the United States] without interruption, as freely as in our own States.” *Crandall v. Nevada*, 73 U.S. 35, 49 (1868).

HB 87 further violates the right to travel because it pressures other states to legislate in response so that their citizens do not face discriminatory treatment in Georgia. *See Austin*, 420 U.S. at 666-67 (explaining that such pressure on other states “compounds” the constitutional violation). In addition, HB 87 burdens the ability of other states to enact driver documentation policies akin to those in New Mexico and Washington by creating a penalty for those states’ residents who travel in Georgia. *See id.* at 666. By creating a discriminatory classification for travelers from certain states, HB 87 interferes with those states’ sovereign power to regulate issuance of their own driver’s licenses.

HB 87’s differential treatment of travelers based on their state’s driver’s license policies cannot withstand strict scrutiny because it is not narrowly tailored to the purpose of the law—immigration regulation and enforcement, *see supra* Section I(A)(1)—even if such a purpose could be deemed a compelling state interest (which it is not). HB 87 penalizes all travelers carrying driver’s licenses from certain states, including U.S. citizens and lawfully present immigrants, and subjects them to investigation and prolonged detention to which people with

licenses from Georgia and other states are not subject. This discrimination violates the right to travel.

**D. HB 87 Violates the Separation-of-Powers Safeguards of the Georgia Constitution**

The sweeping discretion delegated to the Attorney General by Section 19 of HB 87 violates the Georgia Constitution's separation-of-powers guarantee.

Section 19 prohibits the acceptance of an identification document that is not "a secure and verifiable document" by any agency or political subdivision for "any official purpose," O.C.G.A. § 50-36-2(c), and criminalizes the knowing and willful acceptance of such a document in violation of that code. Critically, Section 19 unconstitutionally delegates to the Attorney General the authority to determine what conduct is prohibited or unlawful by granting him virtually unfettered discretion to decide what constitutes a "secure and verifiable document."

O.C.G.A. § 50-36-2 (b)(3) ("Only those documents approved and posted by the Attorney General . . . shall be considered secure and verifiable documents.").

Although Section 19 defines a "secure and verifiable document" as "a document issued by a state or federal jurisdiction or recognized by the United States government and that is verifiable by federal or state law enforcement, intelligence, or homeland security agencies," *id.*, it provides no guidance as to the meaning of these requirements. Instead, Section 19 places the ultimate decision as



to what documents shall be considered “secure and verifiable” solely with the Attorney General’s unreviewable discretion. Moreover, the Attorney General’s list is exclusive: no matter what authority issues a given document, and no matter how easy it is to verify, if it is not on the Attorney General’s list it is not a “secure and verifiable document” under Georgia law.

The Georgia Constitution prohibits precisely this type of delegation. “The legislative, judicial, and executive powers shall forever remain separate and distinct; and no person discharging the duties of one shall at the same time exercise the functions of either of the others . . . .” Ga. Const. Art. I, § II, Para. III.

Legislative power lies exclusively with the General Assembly and cannot be delegated to the Attorney General. *See id.*; Ga. Const. Art. III, § I, Para. I. The Attorney General only has “the power to adopt rules and regulations to carry into effect a law already passed.” *HCA Health Servs. v. Roach*, 265 Ga. 501, 502-03 (1995) (“[An executive’s] authority can extend only to the performance of the latter administrative function, as it has no constitutional authority to legislate.”).

The Georgia Supreme Court has struck down legislation that, like HB 87, purports to delegate the General Assembly’s legislative authority. In *Sundberg v. State*, 234 Ga. 482 (1975), the Court found that legislation that declared certain chemicals to be “controlled substances,” but empowered the State Board of

Pharmacy to thereafter augment the law's original list of prohibited chemicals, was an unconstitutional delegation of power. The Court explained that "while the General Assembly may delegate certain powers to the executive branch of government in order to carry out the law as enacted by the General Assembly," the General Assembly could not "delegate . . . the authority to determine what acts (the possession of such substances) would constitute a crime." *Id.* at 484.

Section 19 of HB 87 suffers from the same constitutional defect by expanding the purported authority of the Attorney General beyond that of merely "carrying out the law" to the role of determining the very conduct that will either be lawful or unlawful. *See id.*; *Long v. State*, 202 Ga. 235 (1947) (delegation to counties of authority to set speed limits unconstitutional); *Howell v. State*, 238 Ga. 95 (1976) (statute providing that "[a]ny person or corporation who shall violate any of the rules or regulations promulgated by the commission [of Natural Resources] shall be guilty of a misdemeanor" was an "unconstitutional delegation of legislative authority" to the commission.). By delegating to the Attorney General the power to determine which documents are "secure and verifiable," and which by exclusion are prohibited from use by public officials and agencies, HB 87 violates the Georgia Constitution's separation of powers doctrine.

## II. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IF HB 87 IS ALLOWED TO GO INTO EFFECT

Plaintiffs will suffer irreparable harm if HB 87 is not enjoined. “An injury is irreparable if it cannot be undone through monetary remedies” or “if damages would be difficult or impossible to calculate.” *Scott v. Roberts*, 612 F.3d 1279, 1295 (11th Cir. 2010) (citations and quotations omitted). Harm resulting from the enforcement of a law that violates the Supremacy Clause is generally irreparable, *see, e.g., Morales v. Trans World Airlines*, 504 U.S. 374, 381 (1992); *Arizona*, 2011 WL 1346945, at \*19, as are other constitutional harms that are intangible in nature, *KH Outdoor, LLC v. Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006).

If HB 87 goes into effect, it will immediately subject numerous plaintiffs and members of plaintiff organizations to the risk of unconstitutional and extended detention while police officers investigate immigration status. Decl. of Eliseo Medina ¶ 8, attached as Ex. 24; Decl. of Harris Raynor ¶¶ 4-6, attached as Ex. 25. Plaintiffs are a diverse group of individuals and organizations who represent racial minorities, national origin minorities, individuals who speak foreign languages or who have accents when speaking English, and individuals who lack the qualifying identity documents enumerated in HB 87. If HB 87 takes effect, Plaintiffs will be at risk of discriminatory treatment, unwarranted police scrutiny, prolonged detentions, and arrest every time they come into contact with Georgia law

enforcement. Several of the individual Plaintiffs have experienced racial profiling in the past, and all of them are worried that if HB 87 goes into effect they will be subjected to repeated stops, questioning, detention, arrest, and even criminal prosecution. Speight Decl. ¶¶ 7-11; Kennedy Decl. ¶¶ 5-9; Piñon Decl. ¶¶ 5-8; Howe Decl. ¶¶ 5-7, 11; Jane Doe #1 Decl. ¶¶ 3-4, 7-8; Jane Doe #2 Decl. ¶¶ 8-11; Singh Decl. ¶¶ 4, 6-7; John Doe #1 Decl. ¶¶ 8, 10-11, attached as Ex. 16; John Doe #2 Decl. ¶¶ 3-6, 8, attached as Ex. 17; Bridges Decl. ¶¶ 9-16; Edwards Decl. ¶¶ 6-8; Sharon Gruner Decl. ¶¶ 3-8; *see also* Silva America Gruner Decl. ¶¶ 15-17, attached as Ex. 18 (noting same fear in community); Anton Flores Decl. ¶¶ 8-12, attached as Ex. 19 (same); Adelina Nicholls Decl. ¶¶ 12, 14, 18-21, attached as Ex. 20 (same). These harms are inherently intangible and unquantifiable, and cannot be adequately remedied after the fact. *See, e.g., Terry v. Ohio*, 392 U.S. 1, 9 (1968) (describing liberty of person as “sacred” right); *Gresham v. Windrush Partners, Ltd.*, 730 F.2d 1417, 1423 (11th Cir. 1984) (discriminatory treatment irreparable); *Grodzki v. Reno*, 950 F. Supp. 339, 342 (N.D. Ga. 1996) (unlawful detention irreparable); *Collins v. Brewer*, 727 F. Supp. 2d 797, 813 (D.Ariz. 2010).

Because of the threat of unreasonable searches and seizures and racial profiling and the threat of unlawful criminal prosecutions, Plaintiffs will fear contact with law enforcement if HB 87 goes into effect, and several will fear

reporting crimes to the police or acting as witnesses, thus making them vulnerable targets for criminals and undermining public safety in their communities. *See* Gonzalez Decl. ¶¶ 10-14; Smith Decl. ¶¶ 9-14; *see also* Jane Doe #2 Decl. ¶ 11; John Doe #1 Decl. ¶ 11; John Doe #2 Decl. ¶ 6; Flores Decl. ¶¶ 10-12; Nicholls Decl. ¶¶ 12, 21; Edwards Decl. ¶ 9. Some will avoid contact with police altogether if HB 87 goes into effect. *See* Jane Doe # 1 Decl. ¶ 4; John Doe # 1 Decl. ¶ 11. These harms are quintessential examples of irreparable harm because of their intangible and unquantifiable nature. *See Trans World Airlines*, 504 U.S. at 381.

Moreover, all Plaintiffs and Georgians will be harmed as local law enforcement resources are diverted away from criminal law enforcement to effectuate HB 87's status-verification and immigration enforcement provisions. *See* Gonzalez Decl. ¶ 14; Smith Decl. ¶¶ 9-14.

In addition, HB 87's severe burdening of several Plaintiffs' constitutional right to travel threatens further irreparable harm. Plaintiffs Singh and Piñon will be residing in or plan to soon visit Georgia, and will use out-of-state licenses as their identification. *See* Piñon Decl. ¶¶ 2-3, 7; Singh Decl. ¶ 2. Because they lack a qualifying identity document that would protect them from additional inquiry by peace officers, they will be afraid to travel to or drive within Georgia once HB 87 goes into effect, and will suffer irreparable harm due to the limitation on their

freedom of movement and their reduction in travel to avoid police interrogation.

*See* Piñon Decl. ¶ 8; Singh Decl. ¶¶ 4-7; *Pro-Choice Network of W.N.Y. v. Project Rescue W.N.Y.*, 799 F. Supp. 1417, 1428, 1430 (W.D.N.Y. 1992) (holding alleged violation of right to travel constitutes irreparable injury), *aff'd and rev'd in part on other grounds by Schenck v. Pro-Choice Network of W.N.Y.*, 519 U.S. 357 (1997).

Finally, the organizational Plaintiffs will suffer and are already suffering irreparable harm because they are required to divert organizational resources away from core mission activities to address their members' and clients' concerns about the law and repercussions from its enforcement, and will face diminished membership and clients if the law were to go into effect. *See* Nicholls Decl. ¶¶ 7-8, 17-18; America Gruner Decl. ¶¶ 9-10; Anita Beaty Decl. ¶¶ 9, 15-16, attached as Ex. 21; Flores Decl. ¶¶ 6, 7, 13; Helen Kim Ho Decl. ¶ 7, attached as Ex. 22; Mohammad Abdollahi Ali-Beik Decl. ¶¶ 4, 6-9, attached as Ex. 23; Decl. of Gabriela Gonzalez-Lamberson ¶ 8, attached as Ex. 26; Medina Decl. ¶¶ 9-10; Raynor Decl. ¶¶ 5, 9-10; *see, e.g., Multi-Channel TV Cable Co. v. Charlottesville Quality Cable Operating Co.*, 22 F.3d 546, 552 (4th Cir. 1994) (threat of loss of customers irreparable); *Mays v. Hosp. Auth. of Henry County*, 582 F. Supp. 425, 428 (N.D. Ga. 1984) (same). The missions of the organizational Plaintiffs have been and will continue to be frustrated as their members will be afraid to gather in

public places, attend marches and meetings, and engage in other advocacy and organizing activities that might bring them into contact with law enforcement. *See* Nicholls Decl. ¶ 9; America Gruner Decl. ¶ 15; Flores Decl. ¶ 13; Ali-Beik Decl. ¶¶ 4, 6-9; Gonzalez-Lamberson Decl. ¶¶ 9-10; Raynor Decl. ¶¶ 5, 9-10. None of these harms can be compensated after the fact, making each a quintessential irreparable injury that justifies an injunction. *See KH Outdoor*, 458 F.3d at 1272.

### **III. THE BALANCE OF HARMS STRONGLY FAVORS THE ISSUANCE OF AN INJUNCTION**

A preliminary injunction will impose only minimal harm on the state of Georgia because Plaintiffs ask merely for the status quo to be maintained while serious questions about the law's constitutionality are adjudicated. This is precisely the purpose of a preliminary injunction: "to preserve the status quo and prevent allegedly irreparable injury until the court [has] the opportunity to decide whether to issue a permanent injunction." *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1261, 1262 (11th Cir. 2005). Any harm to the State in adhering to the status quo is dramatically outweighed by the immediate and irreparable harms Plaintiffs will face, outlined above, if HB 87 is allowed to go into effect.

The requested injunction is intended to prevent the implementation of a new law that would upset the longstanding allocation of authority between state and federal government regarding the regulation of immigration, intrude on the federal

government's ability to regulate immigration and conduct foreign affairs, and impose irreparable harms on Plaintiffs and the public. The equities tip sharply in favor of granting a preliminary injunction while the constitutionality of HB 87 is decided. *See Scott*, 612 F.3d at 1297 (“the public, when the state is a party asserting harm, has no interest in enforcing an unconstitutional law”); *KH Outdoor*, 458 F.3d at 1272.

#### **IV. AN INJUNCTION IS IN THE PUBLIC INTEREST**

The interests of Plaintiffs and the general public are aligned in favor of a preliminary injunction in this case. The public interest is not served by allowing an unconstitutional law to take effect. *See Scott*, 612 F.3d at 1297; *KH Outdoor*, 458 F.3d at 1272 (“The public has no interest in enforcing an unconstitutional ordinance.”); *Fla. Businessmen for Free Enterprise v. Hollywood*, 648 F.2d 956, 959 (5th Cir. 1981). Particularly where civil rights are at stake, an injunction serves the public interest because the injunction “would protect the public interest by protecting those rights to which it too is entitled.” *Nat’l Abortion Fed’n v. Metro. Atlanta Rapid Transit Auth.*, 112 F. Supp. 2d 1320, 1328 (N.D. Ga. 2000). And courts have specifically held that enjoining a state statute that is preempted by federal law will serve the public interest. *See Chamber of Commerce v. Edmonson*, 594 F.3d 742, 771 (10th Cir. 2010); *Villas at Parkside Partners v. City*



*of Farmers Branch*, 701 F. Supp. 2d 835, 859 (N.D. Tex. 2010) (“[T]he public interest favor[s] preserving the uniform application of federal immigration standards.”). This is particularly true in the field of immigration, in light of the risk of encroachment on the federal government’s relations with foreign countries. *See Hines*, 312 U.S. at 64; *United States v. Arizona*, 2011 WL 1346945, at \*21-23.

Without an injunction, Georgia residents and visitors will face enforcement of a statutory scheme that violates the Constitution in numerous respects and presents a grave risk of other harms to the public interest, such as the undermining of public safety as a result of diversion of resources away from criminal investigations.

### CONCLUSION

The motion should be granted.

Dated: June 8, 2011

Respectfully submitted,<sup>17</sup>

/s/ Michelle Lapointe

Michelle Lapointe

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to the following attorney for Defendants Deal, Olens, Reese, and Beatty, to whom a copy is also being hand-delivered today:

Devon Orland  
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40 Capitol Square, S.W.  
Atlanta, GA 30334-1300  
dorland@law.ga.gov  
*Attorney for Defendants Deal, Olens, Reese and Beatty*

I hereby certify that a copy of the foregoing is being hand-delivered on this date to the following non-CM/ECF participant:

Falecia Stewart  
Executive Director, Housing Authority of Fulton County  
HAFC Headquarters  
4273 Wendell Drive  
Atlanta, GA 30336

This 8th day of June, 2011.

/s/ Michelle R. Lapointe

**Index of Exhibits to Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction**

1. Georgia House Bill 87
2. Declaration of Abraham F. Lowenthal and Exhibit A
3. Declaration of Jane Doe 2
4. Declaration of David S. Kennedy, Jr.
5. Declaration of Paul Bridges
6. Declaration of Benjamin Speight
7. Declaration of Everitt Howe
8. Declaration Paul C. Edwards, Jr.
9. Declaration of Sharon Gruner
10. Declaration of Jane Doe 1
11. Declaration of George Gascón
12. Declaration of Eduardo Gonzalez
13. Declaration of Lewis Smith
14. Declaration of Ernesto Piñon
15. Declaration of Jaypaul Singh
16. Declaration of John Doe 1
17. Declaration of John Doe 2
18. Declaration of Silvia America Gruner
19. Declaration of Anton Flores
20. Declaration of Adelina C. Nicholls
21. Declaration of Anita Beaty
22. Declaration of Helen Kim Ho
23. Declaration of Mohammad Abdollahi Ali-Beik
24. Declaration of Eliseo Medina
25. Declaration of Harris Raynor
26. Declaration of Gabriela Gonzalez-Lamberson
27. Declaration of Molly Lauterback and Exhibits A through F
28. Exhibits G through J for Declaration of Molly Lauterback
29. Exhibits K through M for Declaration of Molly Lauterback

# **EXHIBIT 1**

House Bill 87 (AS PASSED HOUSE AND SENATE)

By: Representatives Ramsey of the 72<sup>nd</sup>, Golick of the 34<sup>th</sup>, Dempsey of the 13<sup>th</sup>, Austin of the 10<sup>th</sup>, Allison of the 8<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To enact the "Illegal Immigration Reform and Enforcement Act of 2011"; to amend Article  
2 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to security  
3 and immigration compliance, so as to provide penalties for the failure of a public employer  
4 to utilize the federal work authorization program; to require certain private employers to  
5 utilize the federal work authorization program; to provide for review by the state auditor and  
6 the Department of Labor; to provide for definitions; to amend Title 16 of the Official Code  
7 of Georgia Annotated, relating to crimes and offenses, so as to provide for offenses involving  
8 illegal aliens; to provide for the offense of aggravated identity fraud; to provide for penalties;  
9 to amend Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to  
10 searches and seizures, so as to provide for the investigation of illegal alien status; to amend  
11 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
12 agencies, so as to provide authority for law enforcement officers to enforce federal  
13 immigration laws under certain circumstances and to provide immunity for such officers  
14 subject to limitations; to provide for civil and criminal penalties; to modify provisions  
15 relating to training peace officers for enforcement of immigration and custom laws; to  
16 establish grant funding for local law enforcement agencies to enter into agreements with  
17 federal agencies for the enforcement of immigration law; to amend Chapter 60 of Title 36  
18 of the Official Code of Georgia Annotated, relating to general provisions applicable to local  
19 governments, so as to require proof that private businesses are participating in the  
20 employment eligibility verification system prior to the issuance of a business license or other  
21 documents; to amend Title 42 of the Official Code of Georgia Annotated, relating to penal  
22 institutions, so as to provide for the verification of the immigration status of foreign nationals  
23 arrested and held in a county or municipal jail; to provide that local governing authorities that  
24 have entered or attempted to enter into certain memorandums of agreement with the federal  
25 government shall receive additional funding for confinement of state inmates; to provide for  
26 a funding contingency; to amend Title 45 of the Official Code of Georgia Annotated, relating  
27 to public officers and employees, so as to provide for penalties for failure of agency heads  
28 to abide by certain state immigration laws; to amend Chapter 36 of Title 50 of the Official

29 Code of Georgia Annotated, relating to verification of lawful presence within the United  
 30 States, so as to provide for identification documents by applicants for public benefits; to  
 31 enact the "Secure and Verifiable Identity Document Act"; to provide penalties for the failure  
 32 of an agency head to verify the lawful immigration status of certain applicants for public  
 33 benefits; to establish the Immigration Enforcement Review Board; to establish a study on the  
 34 impact of immigration reform on Georgia's agricultural industry within the Department of  
 35 Agriculture; to provide for related matters; to provide for an effective date and applicability;  
 36 to repeal conflicting laws; and for other purposes.

37 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

38 **SECTION 1.**

39 This Act shall be known and may be cited as the "Illegal Immigration Reform and  
 40 Enforcement Act of 2011."

41 **SECTION 2.**

42 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to  
 43 security and immigration compliance, is amended by revising Code Section 13-10-90,  
 44 relating to definitions, as follows:

45 "13-10-90.

46 As used in this article, the term:

47 (1) 'Commissioner' means the Commissioner of ~~the Georgia Department of~~ Labor.

48 (2) 'Contractor' means a person or entity that enters into a contract for the physical  
 49 performance of services with a public employer.

50 ~~(2)(3)~~ (3) 'Federal work authorization program' means any of the electronic verification of  
 51 work authorization programs operated by the United States Department of Homeland  
 52 Security or any equivalent federal work authorization program operated by the United  
 53 States Department of Homeland Security to verify employment eligibility information of  
 54 newly hired employees, ~~pursuant to the Immigration Reform and Control Act of 1986~~  
 55 ~~(IRCA), D.L. 99-603~~ commonly known as E-Verify, or any subsequent replacement  
 56 program.

57 ~~(2.1)(4)~~ (4) 'Physical performance of services' means the building, altering, repairing,  
 58 improving, or demolishing of any public structure or building or other public  
 59 improvements of any kind to public real property within this state, including the  
 60 construction, reconstruction, or maintenance of all or part of a public road; or any other  
 61 performance of labor for a public employer within this state under a contract or other  
 62 bidding process.



63 ~~(3)~~(5) 'Public employer' means every department, agency, or instrumentality of the state  
64 or a political subdivision of the state with more than one employee.

65 ~~(4)~~(6) 'Subcontractor' means a person or entity having privity of contract with a  
66 contractor and includes a ~~subcontractor~~, contract employee; or staffing agency; ~~or any~~  
67 ~~contractor regardless of its tier.~~

68 (7) 'Sub-subcontractor' means a person or entity having privity of contract with a  
69 subcontractor or privity of contract with another person or entity contracting with a  
70 subcontractor or sub-subcontractor."

71 **SECTION 3.**

72 Said article is further amended by revising subsections (a) and (b) of Code Section 13-10-91,  
73 relating to the verification of new employee eligibility, applicability, and rules and  
74 regulations, as follows:

75 "(a) Every public employer, including, but not limited to, every municipality and county,  
76 shall register and participate in the federal work authorization program to verify  
77 employment eligibility of all newly hired employees. Upon federal authorization, a public  
78 employer shall permanently post the employer's federally issued user identification number  
79 and date of authorization, as established by the agreement for authorization, on the  
80 employer's website; provided, however, that if a local public employer does not maintain  
81 a website, ~~the identification number and date of authorization shall be published annually~~  
82 ~~in the official legal organ for the county.~~ then the local government shall submit such  
83 information to the Carl Vinson Institute of Government of the University of Georgia to be  
84 posted by the institute on the website created for local government audit and budget  
85 reporting. The Carl Vinson Institute of Government of the University of Georgia shall  
86 maintain the information submitted and provide instructions and submission guidelines for  
87 local governments. State departments, agencies, or instrumentalities may satisfy the  
88 requirement of this Code section by posting information required by this Code section on  
89 one website maintained and operated by the state.

90 (b)(1) ~~No~~ A public employer shall not enter into a contract pursuant to this chapter for  
91 the physical performance of services ~~within this state~~ unless the contractor registers and  
92 participates in the federal work authorization program ~~to verify information of all newly~~  
93 ~~hired employees or subcontractors.~~ Before a bid for any such service is considered by a  
94 public employer, the bid shall include a signed, notarized affidavit from the contractor  
95 attesting to the following:

96 (A) The affiant has registered with ~~and~~, is authorized to use, and uses the federal work  
97 authorization program;

98 (B) The user identification number and date of authorization for the affiant; ~~and~~

99 (C) The affiant ~~is using and~~ will continue to use the federal work authorization  
100 program throughout the contract period; and

101 (D) The affiant will contract for the physical performance of services in satisfaction of  
102 such contract only with subcontractors who present an affidavit to the contractor with  
103 the same information required by subparagraphs (A), (B), and (C) of this paragraph.

104 An affidavit required by this subsection shall be considered an open public record once  
105 a public employer has entered into a contract for physical performance of services;  
106 provided, however, that any information protected from public disclosure by federal law  
107 or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained  
108 by the public employer for five years from the date of receipt.

109 (2) A contractor shall not enter into any contract with a public employer for No  
110 contractor or subcontractor who enters a contract pursuant to this chapter with a public  
111 employer or a contractor of a public employer shall enter into such a contract or  
112 subcontract in connection with the physical performance of services within this state  
113 unless the contractor or subcontractor registers and participates in the federal work  
114 authorization program to verify information of all newly hired employees. Any  
115 employee, contractor, or subcontractor of such contractor or subcontractor shall also be  
116 required to satisfy the requirements of this paragraph.

117 (3) ~~Upon contracting with a new subcontractor, a contractor or subcontractor shall, as a~~  
118 ~~condition of any contract or subcontract entered into pursuant to this chapter, provide a~~  
119 ~~public employer with notice of the identity of any and all subsequent subcontractors hired~~  
120 ~~or contracted by that contractor or subcontractor. Such notice shall be provided within~~  
121 ~~five business days of entering into a contract or agreement for hire with any~~  
122 ~~subcontractor. Such notice shall include an affidavit from each subsequent contractor~~  
123 ~~attesting to the subcontractor's name, address, user identification number, and date of~~  
124 ~~authorization to use the federal work authorization program.~~

125 (3) A subcontractor shall not enter into any contract with a contractor unless such  
126 subcontractor registers and participates in the federal work authorization program. A  
127 subcontractor shall submit, at the time of such contract, an affidavit to the contractor in  
128 the same manner and with the same information required in paragraph (1) of this  
129 subsection. It shall be the duty of any subcontractor receiving an affidavit from a  
130 sub-subcontractor to forward notice to the contractor of the receipt, within five business  
131 days of receipt, of such affidavit. It shall be the duty of a subcontractor receiving notice  
132 of receipt of an affidavit from any sub-subcontractor that has contracted with a  
133 sub-subcontractor to forward, within five business days of receipt, a copy of such notice  
134 to the contractor.

135 (4) A sub-subcontractor shall not enter into any contract with a subcontractor or  
136 sub-subcontractor unless such sub-subcontractor registers and participates in the federal  
137 work authorization program. A sub-subcontractor shall submit, at the time of such  
138 contract, an affidavit to the subcontractor or sub-subcontractor with whom such  
139 sub-subcontractor has privity of contract, in the same manner and with the same  
140 information required in paragraph (1) of this subsection. It shall be the duty of any  
141 sub-subcontractor to forward notice of receipt of any affidavit from a sub-subcontractor  
142 to the subcontractor or sub-subcontractor with whom such receiving sub-subcontractor  
143 has privity of contract.

144 (5) In lieu of the affidavit required by this subsection, a contractor, subcontractor, or  
145 sub-subcontractor who has no employees and does not hire or intend to hire employees  
146 for purposes of satisfying or completing the terms and conditions of any part or all of the  
147 original contract with the public employer shall instead provide a copy of the state issued  
148 driver's license or state issued identification card of such contracting party and a copy of  
149 the state issued driver's license or identification card of each independent contractor  
150 utilized in the satisfaction of part or all of the original contract with a public employer.  
151 A driver's license or identification card shall only be accepted in lieu of an affidavit if it  
152 is issued by a state within the United States and such state verifies lawful immigration  
153 status prior to issuing a driver's license or identification card. For purposes of satisfying  
154 the requirements of this subsection, copies of such driver's license or identification card  
155 shall be forwarded to the public employer, contractor, subcontractor, or sub-subcontractor  
156 in the same manner as an affidavit and notice of receipt of an affidavit as required by  
157 paragraphs (1), (3), and (4) of this subsection. Not later than July 1, 2011, the Attorney  
158 General shall provide a list of the states that verify immigration status prior to the  
159 issuance of a driver's license or identification card and that only issue licenses or  
160 identification cards to persons lawfully present in the United States. The list of verified  
161 state drivers' licenses and identification cards shall be posted on the website of the State  
162 Law Department and updated annually thereafter. In the event that a contractor,  
163 subcontractor, or sub-subcontractor later determines that he or she will need to hire  
164 employees to satisfy or complete the physical performance of services under an  
165 applicable contract, then he or she shall first be required to comply with the affidavit  
166 requirements of this subsection.

167 (6) It shall be the duty of the contractor to submit copies of all affidavits, drivers'  
168 licenses, and identification cards required pursuant to this subsection to the public  
169 employer within five business days of receipt. No later than August 1, 2011, the  
170 Departments of Audits and Accounts shall create and post on its website form affidavits  
171 for the federal work authorization program. The affidavits shall require fields for the

172 following information: the name of the project, the name of the contractor, subcontractor,  
173 or sub-subcontractor, the name of the public employer, and the employment eligibility  
174 information required pursuant to this subsection.

175 (7)(A) Not later than December 31 of each year, a public employer shall submit a  
176 compliance report to the state auditor certifying compliance with the provisions of this  
177 subsection. Such compliance report shall contain the public employer's federal work  
178 authorization program verification user number and date of authorization and the legal  
179 name, address, and federal work authorization program user number of the contractor  
180 and the date of the contract between the contractor and public employer. Subject to  
181 available funding, the state auditor shall conduct annual compliance audits on a  
182 minimum of at least one-half of the reporting agencies and publish the results of such  
183 audits annually on the department's website on or before September 30.

184 (B) If the state auditor finds a political subdivision to be in violation of this subsection,  
185 such political subdivision shall be provided 30 days to demonstrate to the state auditor  
186 that such political subdivision has corrected all deficiencies and is in compliance with  
187 this subsection. If, after 30 days, the political subdivision has failed to correct all  
188 deficiencies, such political subdivision shall be excluded from the list of qualified local  
189 governments under Chapter 8 of Title 50 until such time as the political subdivision  
190 demonstrates to the state auditor that such political subdivision has corrected all  
191 deficiencies and is in compliance with this subsection.

192 (C)(i) At any time after the state auditor finds a political subdivision to be in violation  
193 of this subsection, such political subdivision may seek administrative relief through  
194 the Office of State Administrative Hearings. If a political subdivision seeks  
195 administrative relief, the time for correcting deficiencies shall be tolled, and any  
196 action to exclude the political subdivision from the list of qualified governments  
197 under Chapter 8 of Title 50 shall be suspended until such time as a final ruling  
198 upholding the findings of the state auditor is issued.

199 (ii) A new compliance report submitted to the state auditor by the political  
200 subdivision shall be deemed satisfactory and shall correct the prior deficient  
201 compliance report so long as the new report fully complies with this subsection.

202 (iii) No political subdivision of this state shall be found to be in violation of this  
203 subsection by the state auditor as a result of any actions of a county constitutional  
204 officer.

205 (D) If the state auditor finds any political subdivision which is a state department or  
206 agency to be in violation of the provisions of this subsection twice in a five-year period,  
207 the funds appropriated to such state department or agency for the fiscal year following  
208 the year in which the agency was found to be in violation for the second time shall be

209 not greater than 90 percent of the amount so appropriated in the second year of such  
210 noncompliance. Any political subdivision found to be in violation of the provisions of  
211 this subsection shall be listed on www.open.georgia.gov or another official state  
212 website with an indication and explanation of each violation.

213 ~~(4)~~(8) Contingent upon appropriation or approval of necessary funding and in order to  
214 verify compliance with the provisions of this subsection, each year the Commissioner  
215 shall conduct no fewer than 100 random audits of public employers and contractors or  
216 may conduct such an audit upon reasonable grounds to suspect a violation of this  
217 subsection. The results of the audits shall be published on the www.open.georgia.gov  
218 website and on the Georgia Department of Labor's website no later than December 31 of  
219 each year. The Georgia Department of Labor shall seek funding from the United States  
220 Secretary of Labor to the extent such funding is available.

221 ~~(5)~~(9) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
222 statement in an affidavit submitted pursuant to this subsection shall be guilty of a  
223 violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided  
224 in such Code section. Contractors and, subcontractors, sub-subcontractors, and any  
225 person convicted for false statements based on a violation of this subsection shall be  
226 prohibited from bidding on or entering into any public contract for 12 months following  
227 such conviction. A contractor, subcontractor, or sub-subcontractor that has been found  
228 by the Commissioner to have violated this subsection shall be listed by the Department  
229 of Labor on www.open.georgia.gov or other official website of the state with public  
230 information regarding such violation, including the identity of the violator, the nature of  
231 the contract, and the date of conviction. A public employee, contractor, subcontractor,  
232 or sub-subcontractor shall not be held civilly liable or criminally responsible for  
233 unknowingly or unintentionally accepting a bid from or contracting with a contractor,  
234 subcontractor, or sub-subcontractor acting in violation of this subsection. Any contractor,  
235 subcontractor, or sub-subcontractor found by the Commissioner to have violated this  
236 subsection shall, on a second or subsequent violations, be prohibited from bidding on or  
237 entering into any public contract for 12 months following the date of such finding.

238 (10) There shall be a rebuttable presumption that a public employer, contractor,  
239 subcontractor, or sub-subcontractor receiving and acting upon an affidavit conforming  
240 to the content requirements of this subsection does so in good faith, and such public  
241 employer, contractor, subcontractor, or sub-subcontractor may rely upon such affidavit  
242 as being true and correct. The affidavit shall be admissible in any court of law for the  
243 purpose of establishing such presumption.

244 (11) Documents required by this Code section may be submitted electronically, provided  
245 the submission complies with Chapter 12 of Title 10."

246

**SECTION 4.**

247 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
248 amended in Article 8 of Chapter 9, relating to identity fraud, by adding a new Code section  
249 to read as follows:

250 "16-9-121.1.

251 (a) A person commits the offense of aggravated identity fraud when he or she willfully and  
252 fraudulently uses any counterfeit or fictitious identifying information concerning a real,  
253 fictitious, or deceased person with intent to use such counterfeit or fictitious identifying  
254 information for the purpose of obtaining employment.

255 (b) The offense created by this Code section shall not merge with any other offense."

256

**SECTION 5.**

257 Said article of said title is further amended by revising Code Section 16-9-126, relating to  
258 penalties for violations, as follows:

259 "16-9-126.

260 (a) A violation of this article, other than a violation of Code Section 16-9-121.1 or  
261 16-9-122, shall be punishable by imprisonment for not less than one nor more than ten  
262 years or a fine not to exceed \$100,000.00, or both. Any person who commits such a  
263 violation for the second or any subsequent offense shall be punished by imprisonment for  
264 not less than three nor more than 15 years, a fine not to exceed \$250,000.00, or both.

265 (a.1) A violation of Code Section 16-9-121.1 shall be punishable by imprisonment for not  
266 less than one nor more than 15 years, a fine not to exceed \$250,000.00, or both, and such  
267 sentence shall run consecutively to any other sentence which the person has received.

268 (b) A violation of this article which does not involve the intent to commit theft or  
269 appropriation of any property, resource, or other thing of value that is committed by a  
270 person who is less than 21 years of age shall be punishable by imprisonment for not less  
271 than one nor more than three years or a fine not to exceed \$5,000.00, or both.

272 (c) Any person found guilty of a violation of this article may be ordered by the court to  
273 make restitution to any consumer victim or any business victim of such fraud.

274 (d) Each violation of this article shall constitute a separate offense.

275 (e) Upon a conviction of a violation of this article, the court may issue any order necessary  
276 to correct a public record that contains false information resulting from the actions which  
277 resulted in the conviction."

278

**SECTION 6.**

279 Said article of said title is further amended by revising Code Section 16-9-128, relating to  
280 exemptions, as follows:

281 "16-9-128.

282 (a) The prohibitions set forth in Code Sections 16-9-121, 16-9-121.1, and 16-9-122 shall  
283 not apply to nor shall any cause of action arise under Code Sections 16-9-129 and 16-9-131  
284 for:

285 (1) The lawful obtaining of credit information in the course of a bona fide consumer or  
286 commercial transaction;

287 (2) The lawful, good faith exercise of a security interest or a right to offset by a creditor  
288 or a financial institution;

289 (3) The lawful, good faith compliance by any party when required by any warrant, levy,  
290 garnishment, attachment, court order, or other judicial or administrative order, decree, or  
291 directive; or

292 (4) The good faith use of identifying information with the permission of the affected  
293 person.

294 (b) The exemptions provided in subsection (a) of this Code section ~~will~~ shall not apply to  
295 a person intending to further a scheme to violate Code Section 16-9-121, 16-9-121.1, or  
296 16-9-122.

297 (c) It is shall not be necessary for the state to negate any exemption or exception in this  
298 article in any complaint, accusation, indictment, or other pleading or in any trial, hearing,  
299 or other proceeding under this article involving a business victim. In such cases, the  
300 burden of proof of any exemption or exception is upon the business victim claiming it."

301 **SECTION 7.**

302 Said title is further amended in Chapter 11, relating to offenses against public order and  
303 safety, by adding a new article to read as follows:

304 "ARTICLE 5

305 16-11-200.

306 (a) As used in this Code section, the term:

307 (1) 'Illegal alien' means a person who is verified by the federal government to be present  
308 in the United States in violation of federal immigration law.

309 (2) 'Motor vehicle' shall have the same meaning as provided in Code Section 40-1-1.

310 (b) A person who, while committing another criminal offense, knowingly and intentionally  
311 transports or moves an illegal alien in a motor vehicle for the purpose of furthering the  
312 illegal presence of the alien in the United States shall be guilty of the offense of  
313 transporting or moving an illegal alien.

314 (c) Except as provided in this subsection, a person convicted for a first offense of  
 315 transporting or moving an illegal alien who moves seven or fewer illegal aliens at the same  
 316 time shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by  
 317 imprisonment not to exceed 12 months, a fine not to exceed \$1,000.00, or both. A person  
 318 convicted for a second or subsequent offense of transporting or moving an illegal alien, and  
 319 a person convicted on a first offense of transporting or moving an illegal alien who moves  
 320 eight or more illegal aliens at the same time, shall be guilty of a felony and, upon  
 321 conviction thereof, shall be punished by imprisonment of not less than one or more than  
 322 five years, a fine of not less than \$5,000.00 or more than \$20,000.00, or both. A person  
 323 who commits the offense of transporting or moving an illegal alien who does so with the  
 324 intent of making a profit or receiving anything of value shall be guilty of a felony and,  
 325 upon conviction thereof, shall be punished by imprisonment of not less than one or more  
 326 than five years, a fine of not less than \$5,000.00 or more than \$20,000.00, or both.

327 (d) This Code section shall not apply to:

328 (1) A government employee transporting or moving an illegal alien as a part of his or her  
 329 official duties or to any person acting at the direction of such employee;

330 (2) A person who transports an illegal alien to or from a judicial or administrative  
 331 proceeding when such illegal alien is required to appear pursuant to a summons,  
 332 subpoena, court order, or other legal process;

333 (3) A person who transports an illegal alien to a law enforcement agency or a judicial  
 334 officer for official government purposes;

335 (4) An employer transporting an employee who was lawfully hired; or

336 (5) A person providing privately funded social services.

337 16-11-201.

338 (a) As used in this Code section, the term:

339 (1) 'Harboring' or 'harbors' means any conduct that tends to substantially help an illegal  
 340 alien to remain in the United States in violation of federal law but shall not include a  
 341 person providing services to infants, children, or victims of a crime; a person providing  
 342 privately funded social services; a person providing emergency medical service; or an  
 343 attorney or his or her employees for the purpose of representing a criminal defendant.

344 (2) 'Illegal alien' means a person who is verified by the federal government to be present  
 345 in the United States in violation of federal immigration law.

346 (b) A person who is acting in violation of another criminal offense and who knowingly  
 347 conceals, harbors, or shields an illegal alien from detection in any place in this state,  
 348 including any building or means of transportation, when such person knows that the person



349 being concealed, harbored, or shielded is an illegal alien, shall be guilty of the offense of  
350 concealing or harboring an illegal alien.

351 (c) Except as provided in this subsection, a person convicted of concealing or harboring  
352 an illegal alien who conceals or harbors seven or fewer illegal aliens at the same time in  
353 the same location shall be guilty of a misdemeanor and, upon conviction thereof, shall be  
354 punished by imprisonment not to exceed 12 months, a fine not to exceed \$1,000.00, or  
355 both. A person convicted of concealing or harboring an illegal alien who conceals or  
356 harbors eight or more illegal aliens at the same time in the same location, or who conceals  
357 or harbors an illegal alien with the intent of making a profit or receiving anything of value,  
358 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment  
359 of not less than one or more than five years, a fine of not less than \$5,000.00 or more than  
360 \$20,000.00, or both.

361 (d) This Code section shall not apply to a government employee or any person acting at  
362 the express direction of a government employee who conceals, harbors, or shelters an  
363 illegal alien when such illegal alien is or has been the victim of a criminal offense or is a  
364 witness in any civil or criminal proceeding or who holds an illegal alien in a jail, prison,  
365 or other detention facility.

366 16-11-202.

367 (a) As used in this Code section, the term 'illegal alien' means a person who is verified by  
368 the federal government to be present in the United States in violation of federal  
369 immigration law.

370 (b) A person who is acting in violation of another criminal offense and who knowingly  
371 induces, entices, or assists an illegal alien to enter into this state, when such person knows  
372 that the person being induced, enticed, or assisted to enter into this state is an illegal alien,  
373 shall be guilty of the offense of inducing an illegal alien to enter into this state.

374 (c) Except as provided in subsection (d) of this Code section, for a first offense, a person  
375 convicted of inducing an illegal alien to enter into this state shall be guilty of a  
376 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to  
377 exceed 12 months, a fine not to exceed \$1,000.00, or both. For a second or subsequent  
378 conviction of inducing an illegal alien to enter into this state, a person shall be guilty of a  
379 felony and, upon conviction thereof, shall be punished by imprisonment of not less than  
380 one or more than five years, a fine of not less than \$5,000.00 or more than \$20,000.00, or  
381 both.

382 (d) A person who commits the offense of inducing an illegal alien to enter into this state  
383 who does so with the intent of making a profit or receiving any thing of value shall be  
384 guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not

385 less than one or more than five years, a fine of not less than \$5,000.00 or more than  
 386 \$20,000.00, or both.

387 16-11-203.

388 The testimony of any officer, employee, or agent of the federal government having  
 389 confirmed that a person is an illegal alien shall be admissible to prove that the federal  
 390 government has verified such person to be present in the United States in violation of  
 391 federal immigration law. Verification that a person is present in the United States in  
 392 violation of federal immigration law may also be established by any document authorized  
 393 by law to be recorded or filed and in fact recorded or filed in a public office where items  
 394 of this nature are kept."

395 **SECTION 8.**

396 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches and  
 397 seizures, is amended by adding a new article to read as follows:

398 "ARTICLE 5

399 17-5-100.

400 (a) As used in this Code section, the term:

401 (1) 'Criminal violation' means a violation of state or federal criminal law but shall not  
 402 include a violation of a county or municipal law, regulation, or ordinance.

403 (2) 'Illegal alien' means a person who is verified by the federal government to be present  
 404 in the United States in violation of federal immigration law.

405 (b) Except as provided in subsection (f) of this Code section, during any investigation of  
 406 a criminal suspect by a peace officer, when such officer has probable cause to believe that  
 407 a suspect has committed a criminal violation, the officer shall be authorized to seek to  
 408 verify such suspect's immigration status when the suspect is unable to provide one of the  
 409 following:

410 (1) A secure and verifiable document as defined in Code Section 50-36-2;

411 (2) A valid Georgia driver's license;

412 (3) A valid Georgia identification card issued by the Department of Driver Services;

413 (4) If the entity requires proof of legal presence in the United States before issuance, any  
 414 valid driver's license from a state or district of the United States or any valid  
 415 identification document issued by the United States federal government;

416 (5) A document used in compliance with paragraph (2) of subsection (a) of Code Section  
 417 40-5-21; or

418 (6) Other information as to the suspect's identity that is sufficient to allow the peace  
419 officer to independently identify the suspect.

420 (c) When attempting to determine the immigration status of a suspect pursuant to  
421 subsection (b) of this Code section, a peace officer shall be authorized to use any  
422 reasonable means available to determine the immigration status of the suspect, including:  
423 (1) Use of any authorized federal identification data base;  
424 (2) Identification methods authorized by federal law, including those authorized by 8  
425 USCA 1373(c), 8 USCA 1644;  
426 (3) Use of electronic fingerprint readers or similar devices; or  
427 (4) Contacting an appropriate federal agency.

428 (d) A peace officer shall not consider race, color, or national origin in implementing the  
429 requirements of this Code section except to the extent permitted by the Constitutions of  
430 Georgia and of the United States.

431 (e) If during the course of the investigation into such suspect's identity, a peace officer  
432 receives verification that such suspect is an illegal alien, then such peace officer may take  
433 any action authorized by state and federal law, including, but not limited to, detaining such  
434 suspected illegal alien, securely transporting such suspect to any authorized federal or state  
435 detention facility, or notifying the United States Department of Homeland Security or  
436 successor agency. Nothing in this Code section shall be construed to hinder or prevent a  
437 peace officer or law enforcement agency from arresting or detaining any criminal suspect  
438 on other criminal charges.

439 (f) No person who in good faith contacts or has contact with a state or local peace officer  
440 or prosecuting attorney or member of the staff of a prosecuting attorney for the purpose of  
441 acting as a witness to a crime, to report criminal activity, or to seek assistance as a victim  
442 to a crime shall have his or her immigration status investigated based on such contact or  
443 based on information arising from such contact.

444 (g) A peace officer, prosecuting attorney, or government official or employee, acting in  
445 good faith to carry out any provision of this Code section, shall have immunity from  
446 damages or liability from such actions."

447 **SECTION 9.**

448 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
449 agencies, is amended by adding a new Code section to read as follows:

450 "35-1-16.

451 (a) It is the intent of the General Assembly to encourage Georgia law enforcement officials  
452 to work in conjunction with federal immigration authorities and to utilize all resources

453 made available by the federal government to assist state and local law enforcement officers  
454 in the enforcement of the immigration laws of this state and of the United States.

455 **(b) Cooperation with federal authorities.**

456 (1) To the extent authorized by federal law, state and local government employees,  
457 including law enforcement officers and prosecuting attorneys, shall be authorized to send,  
458 receive, and maintain information relating to the immigration status of any individual as  
459 reasonably needed for public safety purposes. Except as provided by federal law, such  
460 employees shall not be prohibited from receiving or maintaining information relating to  
461 the immigration status of any individual or sending or exchanging such information with  
462 other federal, state, or local governmental entities or employees for official public safety  
463 purposes.

464 (2) State and local agencies shall be authorized to enter into memorandum of  
465 understandings and agreements with the United States Department of Justice, the  
466 Department of Homeland Security, or any other federal agency for the purpose of  
467 enforcing federal immigration and customs laws and the detention, removal, and  
468 investigation of illegal aliens and the immigration status of any person in this state. A  
469 peace officer acting within the scope of his or her authority under any such memorandum  
470 of understanding, agreement, or other authorization from the federal government shall  
471 have the power to arrest, with probable cause, any person suspected of being an illegal  
472 alien.

473 (3) Except as provided by federal law, no state or local agency or department shall be  
474 prohibited from utilizing available federal resources, including data bases, equipment,  
475 grant funds, training, or participation in incentive programs for any public safety purpose  
476 related to the enforcement of state and federal immigration laws.

477 (4) When reasonably possible, applicable state agencies shall consider incentive  
478 programs and grant funding for the purpose of assisting and encouraging state and local  
479 agencies and departments to enter into agreements with federal entities and to utilize  
480 federal resources consistent with the provisions of this Code section.

481 **(c) Authority to transport illegal aliens.** If a state or local law enforcement officer has  
482 verification that a person is an illegal alien, then such officer shall be authorized to securely  
483 transport such illegal alien to a federal facility in this state or to any other temporary point  
484 of detention and to reasonably detain such illegal alien when authorized by federal law.  
485 Nothing in this Code section shall be construed to hinder or prevent a peace officer or law  
486 enforcement agency from arresting or detaining any criminal suspect on other criminal  
487 charges.

488 (d) Authority to arrest illegal aliens. When authorized by federal law, a state or local  
 489 law enforcement officer shall be authorized to arrest any person based on such person's  
 490 status as an illegal alien or for a violation of any federal immigration law.

491 (e) Immunity. A law enforcement officer or government official or employee, acting in  
 492 good faith to enforce immigration laws pursuant to an agreement with federal authorities  
 493 to collect or share immigration status information, or to carry out any provision of this  
 494 Code section, shall have immunity from damages or liability from such actions."

495 **SECTION 10.**

496 Said title is further amended in Code Section 35-2-14, relating to defining peace officer and  
 497 the enforcement of immigration and custom laws, by revising subsection (d) as follows:

498 "(d) The commissioner shall annually designate ~~appropriate~~ no fewer than ten peace  
 499 officers to apply to be trained pursuant to the memorandum of understanding provided for  
 500 in subsections (b) and (c) of this Code section. Such training shall be funded pursuant to  
 501 ~~the any~~ federal Homeland Security Appropriation Act of 2006, ~~Public Law 109-90~~, or any  
 502 subsequent source of federal funding. The provisions of this subsection shall become  
 503 effective upon such funding."

504 **SECTION 11.**

505 Said title is further amended by adding a new Code section to read as follows:

506 "35-6A-10.

507 (a) Subject to available funding, the council shall establish a grant or incentive program  
 508 for the provision of funds to local law enforcement agencies as incentive to such agencies  
 509 to use the federal Department of Homeland Security's Secure Communities initiative or any  
 510 successor or similar program and shall establish an incentive program and a grant program  
 511 to offset the costs for local law enforcement agencies to enter into and implement  
 512 memorandums of agreement with federal agencies under Section 287(g) of the federal  
 513 Immigration and Nationality Act. In awarding such grants or incentives, the council shall  
 514 be authorized to consider and give priority to local areas with the highest crime rates for  
 515 crimes committed by illegal aliens.

516 (b) The council shall:

517 (1) Subject to available funding, provide incentive programs and grants to local law  
 518 enforcement agencies for utilizing federal resources and for entering into agreements with  
 519 federal agencies for the enforcement of immigration law;

520 (2) Provide technical assistance to local governments and agencies for obtaining and  
 521 qualifying for incentive programs and grant funds to utilize available federal resources

522 and to enter into and implement such agreements provided for in subsection (a) of this  
 523 Code section;  
 524 (3) Communicate information regarding the availability of federal resources and  
 525 agreements provided for in subsection (a) of this Code section and the availability of  
 526 related incentive programs and grant funds and post such information on the agency's  
 527 official Internet website;  
 528 (4) Provide technical assistance and information regarding the process for contacting  
 529 federal agencies, utilizing federal resources, and entering into agreements provided for  
 530 in subsection (a) of this Code section and post such information on the agency's official  
 531 Internet website; and  
 532 (5) Support state-wide campaigns and information programs in an effort to encourage  
 533 every local law enforcement agency in this state to utilize federal resources and enter into  
 534 agreements for the enforcement of state and federal immigration law."

535 **SECTION 12.**

536 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general  
 537 provisions applicable to local governments, is amended by revising Code Section 36-60-6,  
 538 relating to issuance of local business licenses and evidence of state licensure, as follows:

539 "36-60-6.

540 (a) Every private employer with more than ten employees shall register with and utilize  
 541 the federal work authorization program, as defined by Code Section 13-10-90. The  
 542 requirements of this subsection shall be effective on January 1, 2012, as to employers with  
 543 500 or more employees, on July 1, 2012, as to employers with 100 or more employees but  
 544 fewer than 500 employees, and on July 1, 2013, as to employers with more than ten  
 545 employees but fewer than 100 employees.

546 (b) For purposes of this Code section, the term 'employee' shall have the same meaning as  
 547 set forth in subparagraph (A) of paragraph (1.1) of Code Section 48-13-5, provided that  
 548 such person is also employed to work not less than 35 hours per week.

549 (a)(c) Before any county or municipal corporation issues a business license, occupational  
 550 tax certificate, or other document required to operate a business to any person engaged in  
 551 a profession or business required to be licensed by the state under Title 43, the person must  
 552 shall provide evidence of such licensure to the appropriate agency of the county or  
 553 municipal corporation that issues business licenses. No business license, occupational tax  
 554 certificate, or other document required to operate a business shall be issued to any person  
 555 subject to licensure under Title 43 without evidence of such licensure being presented.

556 (d) Before any county or municipal corporation issues or renews a business license,  
 557 occupational tax certificate, or other document required to operate a business to any person,

558 the person shall provide evidence that he or she is authorized to use the federal work  
559 authorization program or evidence that the provisions of this Code section do not apply.  
560 Evidence of such use shall be in the form of an affidavit as provided by the Attorney  
561 General in subsection (f) of this Code section attesting that he or she utilizes the federal  
562 work authorization program in accordance with federal regulations or that he or she  
563 employs fewer than 11 employees or otherwise does not fall within the requirements of this  
564 Code section. Whether an employer is exempt from using the federal work authorization  
565 program as required by this Code section shall be determined by the number of employees  
566 employed by such employer on January 1 of the year during which the affidavit is  
567 submitted. The affidavit shall include the employer's federally assigned employment  
568 eligibility verification system user number and the date of authority for use. The  
569 requirements of this subsection shall be effective on January 1, 2012, as to employers with  
570 500 or more employees, on July 1, 2012, as to employers with 100 or more employees but  
571 fewer than 500 employees, and on July 1, 2013, as to employers with more than ten  
572 employees but fewer than 100 employees.

573 (e) Beginning December 31, 2012, and annually thereafter, any county or municipal  
574 corporation issuing or renewing a business license, occupational tax certificate, or other  
575 document required to operate a business shall provide to the Department of Audits and  
576 Accounts a report demonstrating that such county or municipality is acting in compliance  
577 with the provisions of this Code section. This annual report shall identify each license or  
578 certificate issued by the agency in the preceding 12 months and include the name of the  
579 person and business issued a license or other document and his or her federally assigned  
580 employment eligibility verification system user number as provided in the affidavit  
581 submitted at the time of application. Subject to funding, the Department of Audits and  
582 Accounts shall annually conduct an audit of no fewer than 20 percent of such reporting  
583 agencies.

584 (f) In order to assist private businesses and counties and municipal corporations in  
585 complying with the provisions of this Code section, the Attorney General shall provide a  
586 standardized form affidavit which may be used as acceptable evidence demonstrating use  
587 of the federal employment eligibility verification system or that the provisions of  
588 subsection (b) of this Code section do not apply to the applicant. The form affidavit shall  
589 be posted by the Attorney General on the Department of Law's official website no later  
590 than January 1, 2012.

591 (g) Once an applicant for a business license, occupational tax certificate, or other  
592 document required to operate a business has submitted an affidavit with a federally  
593 assigned employment eligibility verification system user number, he or she shall not be  
594 authorized to submit a renewal application using a new or different federally assigned

595 employment eligibility verification system user number, unless accompanied by a sworn  
 596 document explaining the reason such applicant obtained a new or different federally  
 597 assigned employment eligibility verification system user number.

598 ~~(b)(h)~~ Any person presenting false or misleading evidence of such state licensure shall be  
 599 guilty of a misdemeanor. Any government official or employee knowingly acting in  
 600 violation of this Code section shall be guilty of a misdemeanor; provided, however, that  
 601 any person who knowingly submits a false or misleading affidavit pursuant to this Code  
 602 section shall be guilty of submitting a false document in violation of Code Section  
 603 16-10-20. It shall be a defense to a violation of this Code section that such person acted  
 604 in good faith and made a reasonable attempt to comply with the requirements of this Code  
 605 section.

606 (i) Documents required by this Code section may be submitted electronically, provided the  
 607 submission complies with Chapter 12 of Title 10.

608 (j) The Attorney General shall be authorized to conduct an investigation and bring any  
 609 criminal or civil action he or she deems necessary to ensure compliance with the provisions  
 610 of this Code section. The Attorney General shall provide an employer who is found to  
 611 have committed a good faith violation of this Code section 30 days to demonstrate to the  
 612 Attorney General that such employer has come into compliance with this Code section.  
 613 During the course of any investigation of violations of this Code section, the Attorney  
 614 General shall also investigate potential violations of Code Section 16-9-121.1 by  
 615 employees that may have led to violations of this Code section."

616 **SECTION 13.**

617 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 618 by revising Code Section 42-4-14, relating to determination of nationality of a person  
 619 charged with felony and confined in a jail facility, as follows:

620 "42-4-14.

621 (a) As used in this Code section, the term 'illegal alien' means a person who is verified by  
 622 the federal government to be present in the United States in violation of federal  
 623 immigration law.

624 ~~(a)(b)~~ When any person is confined, for any period, in the jail of a county or municipality  
 625 or a jail operated by a regional jail authority in compliance with Article 36 of the Vienna  
 626 Convention on Consular Relations, a reasonable effort shall be made to determine the  
 627 nationality of the person so confined.

628 ~~(c)(b) If the prisoner is a foreign national charged with a felony, driving under the~~  
 629 ~~influence pursuant to Code Section 40-6-391, driving without being licensed pursuant to~~  
 630 ~~subsection (a) of Code Section 40-5-20, or with a misdemeanor of a high and aggravated~~



631 ~~nature, the keeper of the jail or other officer shall make~~ When any foreign national is  
 632 confined, for any period, in a county or municipal jail, a reasonable effort shall be made  
 633 to verify that ~~the prisoner~~ such foreign national has been lawfully admitted to the United  
 634 States and if lawfully admitted, that such lawful status has not expired. If verification of  
 635 lawful status ~~can not~~ cannot be made from documents in the possession of the ~~prisoner~~  
 636 foreign national, verification shall be made within 48 hours through a query to the Law  
 637 Enforcement Support Center (LESC) of the United States Department of Homeland  
 638 Security or other office or agency designated ~~for that purpose by the United States~~  
 639 ~~Department of Homeland Security~~ by the federal government. If the ~~prisoner~~ foreign  
 640 national is determined ~~not to be lawfully admitted to the United States~~ to be an illegal alien,  
 641 the keeper of the jail or other officer shall notify the United States Department of  
 642 Homeland Security, or other office or agency designated for notification by the federal  
 643 government.

644 ~~(c)~~(d) Nothing in this Code section shall be construed to deny a person bond or from being  
 645 released from confinement when such person is otherwise eligible for release; provided,  
 646 however, that upon verification that any person confined in a jail is an illegal alien, such  
 647 person may be detained, arrested, and transported as authorized by state and federal law.

648 ~~(d)~~(e) The Georgia Sheriffs Association shall prepare and issue guidelines and procedures  
 649 used to comply with the provisions of this Code section."

650

**SECTION 14.**

651 Said title is further amended by revising subsection (c) of Code Section 42-5-51, relating to  
 652 reimbursement of counties for housing certain inmates, as follows:

653 "(c) After proper documentation is received from the clerk of the court, the department  
 654 shall have 15 days to transfer an inmate under sentence to the place of confinement. If the  
 655 inmate is not transferred within the 15 days, the department ~~will~~ shall reimburse the county,  
 656 in a sum not less than \$7.50 per day per inmate and in such an amount as may be  
 657 appropriated for this purpose by the General Assembly, for the cost of the incarceration,  
 658 commencing 15 days after proper documentation is received by the department from the  
 659 clerk of the court; provided, however, that, subject to an appropriation of funds, local  
 660 governing authorities that have entered into memorandums of understanding or agreement  
 661 or that demonstrate continuous attempts to enter into memorandums of understanding or  
 662 agreement with the federal government under Section 287(g) of the federal Immigration  
 663 and Nationality Act shall receive an additional payment in the amount of 10 percent of the  
 664 established rate paid for reimbursement for the confinement of state inmates in local  
 665 confinement facilities. The reimbursement provisions of this Code section shall only apply  
 666 to payment for the incarceration of felony inmates available for transfer to the department,

667 except inmates under death sentence awaiting transfer after their initial trial, and shall not  
 668 apply to inmates who were incarcerated under the custody of the commissioner at the time  
 669 they were returned to the county jail for trial on additional charges or returned to the county  
 670 jail for any other purposes, including for the purpose of a new trial."

671 **SECTION 15.**

672 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 673 is amended by revising Code Section 45-10-28, relating to penalties for a violation of Part 1  
 674 of Article 2 of Chapter 10 of Title 45 and civil actions by the Attorney General to collect  
 675 penalties, as follows:

676 "45-10-28.

677 (a)(1) Any appointed public official or employee who violates Code Section 45-10-22,  
 678 45-10-23, 45-10-24, or 45-10-26 shall be subject to:

679 (A) Removal from office or employment;

680 (B) A civil fine not to exceed \$10,000.00; and

681 (C) Restitution to the state of any pecuniary benefit received as a result of such  
 682 violation.

683 (2) Any elected public official who violates Code Section 45-10-22, 45-10-23, 45-10-24,  
 684 or 45-10-26 shall be subject to:

685 (A) A civil fine not to exceed \$10,000.00; and

686 (B) Restitution to the state of any pecuniary benefit received as a result of such  
 687 violation.

688 (3) Any business which violates Code Section 45-10-22, 45-10-23, 45-10-24, or  
 689 45-10-26 shall be subject to:

690 (A) A civil fine not to exceed \$10,000.00; and

691 (B) Restitution to the state of any pecuniary benefit received as a result of such  
 692 violation.

693 (b) The penalties provided for in subsection (a) of this Code section may be imposed in  
 694 any civil action brought for that purpose, and such actions shall be brought by the Attorney  
 695 General.

696 (c) As used in this subsection, the term 'agency head' shall have the same meaning as set  
 697 forth in Code Section 50-36-1. Any public official, agency head, or employee who violates  
 698 Code Section 13-10-91 or 50-36-1 shall be subject to:

699 (A) A civil fine not to exceed \$10,000.00;

700 (B) Restitution to the state or local government, whichever is applicable, of any  
 701 pecuniary benefit received as a result of such violation; and

702 (C) Where such violation is committed knowingly and intentionally, removal from  
 703 office or employment."

704 **SECTION 16.**

705 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of  
 706 lawful presence within the United States, is amended by revising subsection (a) of Code  
 707 Section 50-36-1, relating to verification of lawful presence within the United States for  
 708 receipt of certain government benefits, by renumbering paragraphs (1) through (3) as  
 709 paragraphs (2) through (4), respectively, and by adding a new paragraph (1) to read as  
 710 follows:

711 "(1) 'Agency head' means a director, commissioner, chairperson, mayor, councilmember,  
 712 board member, sheriff, or other executive official, whether appointed or elected,  
 713 responsible for establishing policy for a public employer."

714 **SECTION 17.**

715 Said Code section of said chapter is further amended by revising subsection (e) as follows:

716 "(e) An agency or political subdivision providing or administering a public benefit shall  
 717 require every applicant for such benefit to:

718 (1) Provide at least one secure and verifiable document, as defined in Code Section  
 719 50-36-2;

720 (2) Execute ~~execute~~ a signed and sworn affidavit verifying the applicant's lawful  
 721 presence in the United States, which affidavit shall state:

722 ~~(A)~~(A) The applicant is a United States citizen or legal permanent resident 18 years of  
 723 age or older; or

724 ~~(B)~~(B) The applicant is a qualified alien or nonimmigrant under the federal  
 725 Immigration and Nationality Act, Title 8 U.S.C., ~~as amended~~, 18 years of age or older  
 726 lawfully present in the United States and provide the applicant's alien number issued  
 727 by the Department of Homeland Security or other federal immigration agency; and

728 (3) The state auditor shall create affidavits for use under this Code section and shall keep  
 729 a current version of such affidavits on the Department of Audits and Account's official  
 730 website.

731 (4) Documents required by this Code section may be submitted electronically, provided  
 732 the submission complies with Chapter 12 of Title 10."

733 **SECTION 18.**

734 Said Code section of said chapter is further amended by revising subsection (o) as follows:

735 "(o) No employer, agency, or political subdivision shall be subject to lawsuit or liability  
 736 arising from any act to comply with the requirements of this chapter; provided, however,  
 737 that the intentional and knowing failure of any agency head to abide by the provisions of  
 738 this chapter shall:

739 (1) Be a violation of the code of ethics for government service established in Code  
 740 Section 45-10-1 and subject such agency head to the penalties provided for in Code  
 741 Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and

742 (2) Be a high and aggravated misdemeanor offense where such agency head acts to  
 743 willfully violate the provisions of this Code section or acts so as to intentionally and  
 744 deliberately interfere with the implementation of the requirements of this Code section.

745 The Attorney General shall have the authority to conduct a criminal and civil investigation  
 746 of an alleged violation of this chapter by an agency or agency head and to bring a  
 747 prosecution or civil action against an agency or agency head for all cases of violations  
 748 under this chapter. In the event that an order is entered against an employer, the state shall  
 749 be awarded attorney's fees and expenses of litigation incurred in bringing such an action  
 750 and investigating such violation."

751 **SECTION 19.**

752 Said chapter is further amended by adding a new Code section to read as follows:

753 "50-36-2.

754 (a) This Code section shall be known and may be cited as the 'Secure and Verifiable  
 755 Identity Document Act.'

756 (b) As used in this Code section, the term:

757 (1) 'Agency or political subdivision' means any department, agency, authority,  
 758 commission, or government entity of this state or any subdivision of this state.

759 (2) 'Public official' means an elected or appointed official or an employee or an agent of  
 760 an agency or political subdivision.

761 (3) 'Secure and verifiable document' means a document issued by a state or federal  
 762 jurisdiction or recognized by the United States government and that is verifiable by  
 763 federal or state law enforcement, intelligence, or homeland security agencies. Secure and  
 764 verifiable document shall not mean a Matricula Consular de Alta Seguridad, matricula  
 765 consular card, consular matriculation card, consular identification card, or similar  
 766 identification card issued by a foreign government regardless of the holder's immigration  
 767 status. Only those documents approved and posted by the Attorney General pursuant to  
 768 subsection (f) of this Code section shall be considered secure and verifiable documents.

769 (c) Unless required by federal law, on or after January 1, 2012, no agency or political  
 770 subdivision shall accept, rely upon, or utilize an identification document for any official

771 purpose that requires the presentation of identification by such agency or political  
 772 subdivision or by federal or state law unless it is a secure and verifiable document.  
 773 (d) Any person acting in willful violation of this Code section by knowingly accepting  
 774 identification documents that are not secure and verifiable documents shall be guilty of a  
 775 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to  
 776 exceed 12 months, a fine not to exceed \$1,000.00, or both.  
 777 (e) This Code section shall not apply to:  
 778 (1) A person reporting a crime;  
 779 (2) An agency official accepting a crime report, conducting a criminal investigation, or  
 780 assisting a foreign national to obtain a temporary protective order;  
 781 (3) A person providing services to infants, children, or victims of a crime;  
 782 (4) A person providing emergency medical service;  
 783 (5) A peace officer in the performance of the officer's official duties and within the scope  
 784 of his or her employment;  
 785 (6) Instances when a federal law mandates acceptance of a document;  
 786 (7) A court, court official, or traffic violation bureau for the purpose of enforcing a  
 787 citation, accusation, or indictment;  
 788 (8) Paragraph (2) of subsection (a) of Code Section 40-5-21 or paragraph (2) of  
 789 subsection (a) of Code Section 40-5-21.1; or  
 790 (9) An attorney or his or her employees for the purpose of representing a criminal  
 791 defendant.  
 792 (f) Not later than August 1, 2011, the Attorney General shall provide and make public on  
 793 the Department of Law's website a list of acceptable secure and verifiable documents. The  
 794 list shall be reviewed and updated annually by the Attorney General."

795 **SECTION 20.**

796 Said chapter is further amended by adding a new Code section to read as follows:

797 "50-36-3.

798 (a) As used in this Code section, the term:

799 (1) 'Board' means the Immigration Enforcement Review Board.

800 (2) 'Public agency or employee' means any government, department, commission,  
 801 committee, authority, board, or bureau of this state or any political subdivision of this  
 802 state and any employee or official, whether appointed, elected, or otherwise employed  
 803 by such a governmental entity.

804 (3) 'Served' or 'service' means delivery by certified mail or statutory overnight delivery,  
 805 return receipt requested.

806 (b) The Immigration Enforcement Review Board is established and shall consist of seven  
807 members. Three members shall be appointed by the Governor, two members shall be  
808 appointed by the Lieutenant Governor, and two members shall be appointed by the Speaker  
809 of the House of Representatives. A chairperson shall be selected by a majority vote of the  
810 members. All matters before the board shall be determined by a majority vote of qualified  
811 board members. Members shall be appointed for terms of two years and shall continue to  
812 hold such position until their successors are duly appointed and qualified. A member may  
813 be reappointed to an additional term. If a vacancy occurs in the membership of the board,  
814 the appropriate appointing party shall appoint a successor for the remainder of the  
815 unexpired term and until a successor is appointed and qualified.

816 (c) The board shall be attached to the Department of Audits and Accounting for  
817 administrative purposes. The members of the board shall receive no compensation for their  
818 services but shall be reimbursed for any expenses incurred in connection with the  
819 investigation and review of complaints from funds of the board appropriated to the  
820 Department of Audits and Accounting for such purposes.

821 (d) The Immigration Enforcement Review Board shall have the following duties:

822 (1) To conduct a review or investigation of any complaint properly filed with the board;

823 (2) To take such remedial action deemed appropriate in response to complaints filed with  
824 the board, including holding hearings and considering evidence;

825 (3) To make and adopt rules and regulations consistent with the provisions of this Code  
826 section; and

827 (4) To subpoena relevant documents and witnesses and to place witnesses under oath for  
828 the provision of testimony in matters before the board.

829 (e) The board shall have the authority to investigate and review any complaint with respect  
830 to all actions of a public agency or employee alleged to have violated or failed to properly  
831 enforce the provisions of Code Section 13-10-91, 36-80-23, or 50-36-1 with which such  
832 public agency or employee was required to comply. Complaints may be received from any  
833 legal resident of this state as defined by Code Section 40-2-1 who is also a legally  
834 registered voter. The method and grounds for filing a complaint shall be posted on the  
835 Department of Audits and Accounting's website.

836 (f) The board shall meet at a minimum of once every three months and shall send a notice  
837 to all interested parties of the places and times of its meetings. The board shall issue a  
838 written report of its findings in all complaints which shall include such evaluations,  
839 judgments, and recommendations as it deems appropriate.

840 (g) The initial review or hearing may, as determined by the board, be conducted by the full  
841 board or by one or more board members. Such review panel or members shall make  
842 findings and issue an initial decision. The initial decision shall be served upon the

843 complaining party and the applicable public agency or employee that is the subject of a  
844 complaint within 60 calendar days. If the findings are adverse to the public agency or  
845 employee, or both, such party shall have 30 days to take the necessary remedial action, if  
846 any, and show cause why sanctions should not be imposed.

847 (h) In the event that the remedial action does not occur to the satisfaction of the review  
848 panel or members, the reviewing panel or members shall make a recommendation  
849 specifying an appropriate sanction. Sanctions may include revocation of qualified local  
850 government status, loss of state appropriated funds, and a monetary fine of not less than  
851 \$1,000.00 or more than \$5,000.00. Sanctions shall only be imposed against an individual  
852 employee or official where there is a finding supported by a preponderance of the evidence  
853 that such individual knowingly and willfully violated or failed to abide by the provisions  
854 of Code Section 13-10-91, 36-80-23, or 50-36-1.

855 (i) The initial decision or recommendation for sanctions, or both, shall be served upon the  
856 complaining party and the applicable public agency or employee that is the subject of a  
857 complaint. Where an initial decision is made by fewer than the entire board, the decision  
858 may be appealed to the full board. Appeals shall be filed with the board not later than 30  
859 days following the recommendation for sanctions, or 30 days following the initial decision,  
860 if no adverse findings were made. Appeals may be made by the complainant or sanctioned  
861 public agency or employee. The full board shall by majority vote affirm, overturn, or  
862 modify the initial decision. The board may conduct a further hearing on the matter, or make  
863 a final decision based on the record from any previously held hearing by the original  
864 reviewing panel or members, or determine that no action is necessary based on the  
865 information before the board. Where the initial decision or recommendation is made by  
866 the full board, such decision shall be the final decision of the board following 30 days after  
867 service on the public agency or employee, unless further action is taken by the board prior  
868 to the expiration of the 30 day period.

869 (j) When a public agency or employee fails to take the specified remedial action, the  
870 Attorney General shall be authorized to bring a civil mandamus action against such public  
871 agency or employee to enforce compliance with applicable law and the sanctions  
872 recommended by the board. Nothing contained in this Code section shall prohibit the  
873 Attorney General from seeking any other remedy available by law."

874 **SECTION 20.1.**

875 WHEREAS, Georgia's agricultural industry is a vital pillar for this state's economy and  
876 essential to the quality of life enjoyed by all Georgians; and

877 WHEREAS, understanding the impact of immigration reform measures on Georgia's  
878 important agricultural industry is a fundamental key to the implementation of immigration  
879 reform in a manner that is in the best interests of this state; and

880 WHEREAS, the General Assembly recognizes that the federal guest worker program,  
881 designated the H-2A visa program, for temporary and seasonal agriculture immigrant  
882 workers is administratively cumbersome and flawed; and

883 WHEREAS, both Georgia and federal law fail to address many of the legal, economic, and  
884 security aspects of immigration issues facing our state and especially our agricultural  
885 industry; and

886 WHEREAS, these issues of great importance to the economy and of this state have not  
887 before received extensive study by the Georgia General Assembly and merit such detailed  
888 and specialized consideration at this time.

889 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
890 GEORGIA that the Department of Agriculture is directed to conduct a study of the  
891 conditions, needs, issues, and problems mentioned above or related thereto and recommend  
892 any actions or legislation that the department deems necessary or appropriate. The  
893 Department of Agriculture shall consider the current and future impact of immigration on the  
894 state agricultural industry. The department shall work in conjunction with and collect expert  
895 testimony and information from the United States Department of Agriculture, the Department  
896 of Justice, and other state governments. The department shall specifically address the need  
897 for reform of the federal H-2A program and provide recommendations for such federal  
898 reform. In addition, the department shall recommend changes needed in Georgia to provide  
899 for improvements in the H-2A process, identify where such action may be taken by the state,  
900 and provide a report evaluating the legal and economic feasibility of implementing a state  
901 guest worker program. The department may conduct such meetings at such places and at  
902 such times as it may deem necessary or convenient to enable it to exercise fully and  
903 effectively its powers, perform its duties, and accomplish the objectives and purposes of this  
904 resolution. The Department of Agriculture shall make a final written report to the Governor,  
905 the President of the Senate, and the Speaker of the House of Representatives not later than  
906 January 1, 2012. Provided that the provisions of this Act have been complied with, the  
907 department shall not have any further obligation to continue such study on or after January  
908 1, 2012.



909

**SECTION 21.**

910 (a) If any provision or part of any provision of this Act or the application of the same is held  
911 invalid or unconstitutional, the invalidity shall not affect the other provisions or applications  
912 of this Act or any other part of this Act than can be given effect without the invalid provision  
913 or application, and to this end, the provisions of this Act are severable.

914 (b) The terms of this Act regarding immigration shall be construed to have the meanings  
915 consistent with such terms under federal immigration law.

916 (c) The provisions of this Act shall be implemented in a manner consistent with federal laws  
917 governing immigration and civil rights.

918

**SECTION 22.**

919 Section 17 of this Act shall become effective on January 1, 2012. The remaining sections  
920 of this Act shall become effective on July 1, 2011. Except as otherwise expressly provided,  
921 the sections of this Act shall apply to offenses and violations occurring on or after their  
922 respective effective dates.

923

**SECTION 23.**

924 All laws and parts of laws in conflict with this Act are repealed.

# **EXHIBIT 2**

**DECLARATION OF ABRAHAM F. LOWENTHAL**

I, Abraham F. Lowenthal, hereby declare:

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.
2. I am a Professor of International Relations at the University of Southern California (“USC”), a position I have held since 1984. I am also currently a non-resident Senior Fellow of the Pacific Council on International Policy, a Los Angeles-based international leadership forum, as well as a non-resident Senior Fellow of the Brookings Institution. My *curriculum vitae* is attached to my declaration as Exhibit A.
3. I received my PhD in Government from Harvard University in 1971. Previously, I earned my BA and a Master’s in Public Administration degree, both also from Harvard, in 1961 and 1964, respectively.
4. For the past forty years, my primary area of research has been relations between the United States and Latin America. I have written or edited some fifteen books and numerous journal articles, chapters and volumes on various aspects of those relations. My essay published in the July 2010 issue of *Foreign Affairs*, the leading journal on international relations, was my seventh;

no one else in that journal's history has published as frequently on U.S.-Latin American relations. I was founding director of the Latin America Program at the Woodrow Wilson International Center for Scholars in Washington, DC from 1977 to 1983, and founding director of the Inter-American Dialogue, also in Washington, from 1982 to 1992. These are still considered among the country's foremost think tanks on U.S.-Latin American relations.

5. Among the issues on which I have focused is the relationship between the United States and Mexico, including the special issues which arise from Mexico's proximity, presence, and influence. I directed the California-Mexico project at USC from 1984 to 1992, co-edited the *California-Mexico Connection* (Stanford University Press, 1993), and included sections on managing complex interdependence with Mexico in my most recent book, Global California (Stanford University Press, 2009). I have travelled frequently to Mexico, lectured there often, and participated actively in numerous academic and policy exchanges there. I recently published an essay titled "The United States and Latin America, 1960-2010," in the Mexican journal, *Foro Internacional*. It was the lead essay in their fiftieth anniversary issue.

6. I have testified fourteen times on U.S.-Latin American relations before the U.S. Congress, briefed the First Lady and two Secretaries of State, and

addressed all the U.S. Ambassadors to Latin America and the Caribbean in January 2010 at the request of the State Department.

7. I am quite familiar with the history as well as the current state of relations between the United States and Mexico. During 2008-2009, I served as senior advisor to the Binational Task Force on the U.S.-Mexico Border organized by the Pacific Council on International Policy (“PCIP”) and the Mexican Council on Foreign Relations (“COMEXI”), which in 2009 published a widely-praised report, *Managing the Mexico-U.S. Border: Seeking Cooperative Solutions to Common Challenges*. Many of the ideas in that report are reflected in the joint “Declaration by the Government of the United States of America and the Government of the United Mexican States Concerning Twenty-First Century Border Management” (May 19, 2010), a document which illustrates the important progress the two countries have recently been making in confronting shared challenges in a constructive, mutually respectful, and effective way.

8. Former President George W. Bush, President Barack Obama, and numerous other senior US government officials have identified the U.S. relationship with Mexico as one of the most significant international relationships this country has, in some ways the most important in day to day terms. A country of nearly 110 million persons sharing a two thousand miles

land border with the United States, Mexico is both large and close, and it is inextricably intertwined with the United States as a result of many years of migration and of functional economic integration involving investment; trade; and the movement of people, goods, money, and ideas. Mexico is the third largest export market for the United States (after Canada and China). It is an arena for major investment by U.S. corporations, in many cases facilitating integrated industrial production that might otherwise move to Asia. It is the destination for millions of U.S. tourists each year, and has become the retirement site for hundreds of thousands of U.S. citizens. The extent and significance of the U.S.-Mexico connection in quotidian terms can hardly be exaggerated. It substantially affects a range of issues including employment, the environment, public health, law enforcement, as well as immigration.

9. Because of Mexico's large and growing importance for the United States, relations with Mexico have been a high priority for the current government of the United States. The only foreign head of state with whom President-elect Obama met was Felipe Calderón of Mexico. Mexico was also the first country of the Americas Mr. Obama visited as President. In her first fifteen months in office, Secretary of State Clinton made two trips to Mexico, accompanied on one or both occasions by the Secretary of Defense, the Attorney General, the

Secretary for Homeland Security, the Chairman of the Joint Chiefs of Staff and other senior officials. Mexico's President Calderon made the second state visit to Washington during the Obama administration and recently returned for further discussions with the U.S. government and Congress.

10. I have read House Bill 87, the recent legislation approved by the legislature of Georgia and signed by that state's governor. Among other provisions, the law authorizes Georgia law enforcement to prolong the detention of individuals they stop in order to verify their immigration status, and allows for the warrantless arrest of individuals if law enforcement officers obtain verification that an individual is present in the United States in violation of immigration law. The law also prohibits the use of the Mexican Consular Identification Card, commonly known as the Matricula, as identification for any official purpose.

11. It is my considered opinion that this law, if allowed to stand, would significantly impair the relations of Mexico with the United States; the attitudes and opinions of Mexicans, officials, and the general public toward the United States; and the capacity of U.S. Government officials to conduct constructive relations with Mexico in the national interest of the United States and its citizens.

12. Mexico is an important trading partner with the state of Georgia, and the port of Savannah in 2010 was the second-greatest source of exports to Mexico, by total value, of any port in the United States. Actions taken in Georgia that affect international issues undoubtedly have an important impact upon relations between the United States and Mexico. One such issue is the question of immigration and the treatment of Mexican nationals who migrate, legally or illegally, to the United States. Any policy that significantly affects Mexicans living abroad affects the attitude of the Mexican government and of other important Mexican business and other interest groups. Such policies therefore significantly affect Mexico's stance in foreign relations and foreign negotiations with the United States.

13. Indeed, already the Consul General of Mexico in Atlanta has publicly criticized HB 87 on two occasions, first on March 4, when the Georgia House of Representatives passed an earlier version of the bill, and subsequently on April 15, when the Senate passed the final version of the bill. In the latter statement the Consul General observed that if HB 87 were to take effect it "could have negative consequences on the human and civil rights of Mexican nationals" living in Georgia, and that it could subject them to "undue law enforcement immigration practices by state officers." The Consul General also

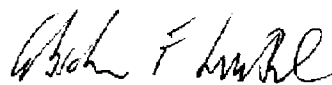


objected that “HB 87 imposes restrictions on High Security Consular Identification cards which have no bearing on the holder’s immigration status, and are issued under rigorous procedures and according to the Vienna Convention on Consular Relations to which Mexico and the United States are parties.”

14. The juxtaposition of the United States and Mexico – of a powerful post-industrial, technologically advanced society and economy next to a capital-poor, labor surplus developing economy – creates both great opportunities for synergistic cooperation and for destructive conflict. The task of U.S. foreign policy is to try to build upon and realize the synergies, and to reduce, mitigate and manage the conflicts. Georgia’s HB 87 makes this challenge far more difficult. Negotiations on immigration regulations, improving various aspects of life at the border, foreign trade, and control of drug trafficking have been or will be negatively affected by this law.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 7<sup>th</sup> day of June, 2011 in West Barnstable, Massachusetts.



---

Abraham F. Lowenthal

# EXHIBIT A

Abraham F. Lowenthal  
*Curriculum Vitae*

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Phone: 213-740-0793

**ABRAHAM F. LOWENTHAL**  
***CURRICULUM VITAE***  
October 2010

Born: April 6, 1941, in Hyannis, Massachusetts

Married: June 24, 1962, to Janet Wyzanski (divorced);  
January 20, 1991 to Jane S. Jaquette

Children: Linda Claudina; born April 6, 1966, Santiago, Dominican Republic  
Michael Francis; born May 9, 1969, Washington, D.C.

Education: Public schools of Leominster, Massachusetts

A.B. Harvard College 1961 (magna cum laude in History)

Harvard Law School 1961-1962 (completed one year)

M.P.A. Graduate School of Public Administration, Harvard University, 1964

Ph.D. Harvard University (Government) 1971

**AWARDS AND HONORS** (Selected)

- Phi Kappa Phi award, for outstanding book by faculty member at University of Southern California (USC) (1988)
- Golden Key award, for faculty excellence, University of Southern California (1990)
- Doctor of Laws, honoris causa, University of Notre Dame (1991)
- Fulbright Senior Fellow Award, for research in Japan, Council for International Exchange of Scholars, Washington, DC (1993)
- Decorated by President Fernando Henrique Cardoso (Brazil) with the Order of the Southern Cross, rank of Grand Commander (reserved for cabinet members, justices of the Supreme Court and others of comparable stature), for outstanding contributions to the study and practice of inter-American relations, Washington, DC (1999)
- Appointed Robert F. Erburu Professor of Ethics, Globalization and Development, USC (2005)
- Edwin J. Perkins Public Service Award for "demonstrated commitment to promoting diversity in international affairs." (2005)
- Decorated by President Leonel Fernandez (Dominican Republic) with the Order of

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Sanchez, Duarte and Mella, with rank of Commander. (2006)

- Los Angeles Chamber of Commerce Stanley T. Olafson Award for “contributing to the development of world trade in Southern California.” (2010)

## **SCHOLARSHIPS AND FELLOWSHIPS**

### Undergraduate and Graduate:

Various local, state and Harvard College scholarships; Harvard University Administration Fellowships; Brookings Institution Foreign Policy Fellowship (1967-1969)

### Post-Graduate:

- International Affairs Fellowship, Council on Foreign Relations (1972-1973); Awardee, European Visitors' Program, EEC, November-December, 1976; Guest Scholar, Brookings Institution (1980); Visiting Scholar, Villa Serbelloni, Rockefeller Foundation, February 1981; Mellon Scholar, UCLA (1981); Fellow, St. Antony's College, Oxford, April-May 1983; Lester Martin Fellow, Hebrew University of Jerusalem, June 1983; Tinker Visiting Fellow, CEBRAP, São Paulo, Brazil (July 1983); Visiting Fellow, University of California, San Diego (September-December, 1983); Senior Associate Member, St. Antony's College, Oxford (May-June 1988); Distinguished Visiting Scholar, Towson State University, Towson, Maryland (August 1989), Distinguished Visiting Scholar, University of Oklahoma (November 1991); Research Associate, International Institute of Strategic Studies, London (May-July, 1992). Senior Fulbright Scholar, Tokyo (May-June 1994); Fellow, Southern California Studies Center, University of Southern California (1998-99); Visiting Fellow, St. Antony's College, University of Oxford, (May-June 1999); Visiting Scholar, Weatherhead Center for International Affairs, Harvard University, (July-December 1999); Visiting Fellow, Public Policy Institute of California, San Francisco (January 2000-June 2000); Senior Fellow, UCLA School of Public Policy and Social Research (2003-2004); Public Policy Scholar, Woodrow Wilson International Center for Scholars, Washington, D.C., November 1, 2005 - January 31, 2006.

## **PROFESSIONAL EMPLOYMENT**

Sept 1964-Aug 1966:	Training Associate, Ford Foundation, Santiago, Dominican Republic
Feb 1966-June 1966:	Visiting Lecturer in Political Science, Catholic University of Santiago, Dominican Republic
July 1969-June 1972:	Assistant Representative, Acting Representative, and Social Science Program Advisor, Ford Foundation, Lima, Peru
Sept 1972-June 1974:	Visiting Fellow and Research Associate, Center for International Studies, Princeton University

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July 1974-Dec 1976:	Assistant Director and then Director of Studies, Council on Foreign Relations, New York
Sept 1974-June 1976:	Lecturer (part-time) in Public and International Affairs and Latin American Studies, Princeton University
Jan 1977-Dec 1983:	Established and directed Latin American Program, Woodrow Wilson International Center for Scholars, Washington
Oct 1982-January 1992:	Founding Executive Director, Inter-American Dialogue
Jan 1984-present:	Professor, School of International Relations, University of Southern California (USC)
Sept 1989-June 1993:	Director, California-Mexico Project, USC
July 1992-June 1997:	Director, Center for International Studies, USC
1993-1995	Led exploratory effort to establish the Pacific Council on International Policy
April, 1995-June 2005	President, Pacific Council on International Policy
July, 1995-June 2005	Vice President, Council on Foreign Relations (New York)
July 2005-present	President emeritus, Pacific Council on International Policy
Nov 2005 - Jan 2006	Public Policy Scholar, Woodrow Wilson International Center for Scholars, Washington, DC
January 2006-present	Adjunct Professor (Research), Thomas Watson Institute on International Studies, Brown University
January 2007-present	Senior Fellow for Latin America and International Affairs, Pacific Council on International Policy
January 2008-June 2010	Nonresident Senior Fellow, Brookings Institution

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### GOVERNANCE BOARDS

1977-1980	Member, Ad Hoc Committee, Rockefeller Public Service Awards, Princeton University
1977-1982	Member, National Advisory Council, Amnesty International
1979-1981	Member, Council, American Political Science Association
1979-1981	Member, Executive Council, Latin American Studies Association
1979-1984	Charter Member, National Advisory Committee, Hubert H. Humphrey Fellowship Program (Chairman for two meetings)
1981-1986	Member, International Advisory Board, Center on U.S.-Mexico Relations, University of California, San Diego
1981-1986	Member, International Scientific Committees, Gino Germani Center, Italy
1982-1983	Member, Board, Consortium of U.S. Research Programs for Mexico (PROFMEX)
1984-1986	Member, Board of Monticello West Foundation, Stanford
1984-1995	Member, International Advisory Board, Helen Kellogg Institute, Notre Dame
1985	Chairman, Nominations Committee, Latin American Studies Association
1985-1989	Chairman, Board of Advisors on Latin American Affairs, Roosevelt Center for American Policy Studies
1985-present	Member of Advisory Board, <u>New Perspectives Quarterly</u>
1985-1990	Member, Committee of Friends, International Friends of the Chilean Human Rights Commission
1986-1988	Member, Selection Panel, International Fellowship Program to Strengthen Soviet Studies, Social Science Research Council
1986-1995	Member, National Advisory Board, Center for National Policy
1989-1995	Member, Consejo Consultivo, <u>Foro Interamericano</u> , Santiago, Chile
1989-1999	Member, Board of Advisors, <u>Hemisfile: Latin American Trends</u> , Institute of the Americas, La Jolla
1989-1993	Member, Selection Panel, International Affairs Fellowship, Council on Foreign Relations
1989-1996	Member, California Committee, Americas Watch,
1991-1992	Member, Latin American Task Force, Commission on Competitiveness, New York State Industrial Cooperation Council
1991-present	Member, International Advisory Committee, Latin American Faculty of Social Sciences (FLACSO), Santo Domingo, Dominican Republic
1992-1995	Member, Advisory Board, Instituto Cultural Mexicano de Los Angeles
1993-2004	Member of the Board of Directors, Inter-American Dialogue
1993-present	Member, International Advisory Board, Instituto de Estudios Políticos y Relaciones Internacionales, Universidad Nacional de Colombia (Bogota)
1994-present	Member, Research Council, International Forum for Democratic Studies

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1998-present	Member; Consejo Editorial, Revista de Humanidades, Instituto Tecnológico y de Estudios Superiores de Monterrey, Mexico
1999-2001	Board member, Fulbright Association
2003-2006	Member, Advisory Committee, Institutions for the Successor Generation of Americans, American Assembly
2003-present	Member, International Advisory Board, Monterey Institute of International Studies
January 2006	Contributing Editor, New Perspectives Quarterly
April 2006-present	Member, Editorial Board, Revista do Economia e Relações Internacionais (São Paulo)
March 2007-present	Member, Selection Committee, Gus Hart Award, Chicago Council on Global Affairs
March 2010 –present	Member of the International Advisory Board of the Department of Political Studies, Fundación Salvadoreña para El Desarrollo Económico y Social (FUSADES, El Salvador).
August 2010-present	Member of the Strategic Advisory Board of the United Nations Development Program, Regional Bureau for Latin America and the Caribbean.

**OTHER APPOINTMENTS**

1992-present	Member, Inter-American Dialogue
05-93 to 07-93	Visiting Research Associate, International Institute for Strategic Studies, London
1992-1993	Senior Fellow, Inter-American Dialogue (IAD)
1993-1994	Director, Brazil Project, Inter-American Dialogue (IAD)
1993-1995	Director, Democratic Governance Project, (IAD)
1997-2001	Member, International Trade Advisory Council appointed by Los Angeles Mayor Richard Riordan
1999-2000	Senior Advisor, Society of International Business Fellows(Atlanta)
2001-2005	Member, International Trade Advisory Board appointed by Los Angeles Mayor James Hahn
2004-2005	Member, Task Force on US Policy in the Americas, Inter-American Dialogue
March-April 2006	Visiting Fellow, Fernando Henrique Cardoso Institute, and Fundação Armando Alvares Penteado, (FAAP), São Paulo, Brazil
April-May 2006	Visiting Fellow, Latin American Social Science Faculty (FLACSO), Santiago, Chile
January 2008-present	Non-resident Senior Fellow, Brookings Institution

**UNIVERSITY COMMITTEE RESPONSIBILITIES (Selected)**

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- Chairman, Committee on Admissions and Financial Aid, School of International Relations 1985-86; 1986-87
- Member, Pew Advisory Committee, Center for International Studies, 1986-87, 1987-88
- Member, Advisory Committee on Selection of New Dean for Letters, Arts, and Sciences, 1986
- Chairman, University-wide Committee on Investments and Social Responsibility, 1986-1989
- Member, Committee on Libraries, 1986-1989
- Member, Search Committee, Department of History, 1986
- Member, Advisory Committee, Program on International Journalism, School of Journalism, 1986-present
- Chairman, Task Force on Strengthening the PhD Program, School of International Relations, 1989
- Member, University-wide Committee on Appointments, Promotion and Tenure, 1989
- Member, All-University Phi Kappa Phi Faculty Awards Committee 1989-90
- Member, Advisory Committee, Center for International Studies, 1987-88, 1990-91
- Chairman, Committee on Placement, Internships and Alumni Relations, School of International Relations, 1987-88, 1991-92
- Member, Search Committee, Dean of Social Sciences and Communications, LAS, 1991-92
- Co-Chair, Southern California Workshop on Political and Economic Liberalization, 1992-93; chair, 1995-96
- Member, Advisory Board, International Business Education and Research Program (IBEAR), 1992-present
- Participant, Boeckman Center for Latin American Studies, 1992-present
- Member, Search Committees, School of International Relations, 1992-93 and most subsequent years



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- Member, Advisory Board, Social Science Research Institute, 1993-1998
- Member, Advisory Board, Program in International Journalism, 1993-1997
- Member, Academic Senate, Regional Studies Program, 1993-present
- Member, Ad Hoc Group on International Education, 1993-present
- Chair, Selection Committee for Provost's Initiative on Latin American and Asia Experts, 1996-99
- Fellow, Southern California Studies Center, 1995-1999
- Member, numerous committees at the School of International Relations, most recently on Development, on College Initiative, and on Public Diplomacy Search (joint with Annenberg).
- Member, Faculty Advisory Council, Center for Public Diplomacy, Annenberg School of Communication
- Member, Advisory Board of Levan Institute for Humanities and Ethics

### **EDITORIAL BOARDS**

New Perspectives Quarterly, Hemisphere, Hemisfile (1984-2000), Journal of Inter-American Studies and World Affairs (1980-1997), International Security (1977-1985), The Wilson Quarterly (1977-1983), Center for US-Mexico Studies, University of California, San Diego (1988-1995), Revista de Humanidades: Tecnológico de Monterrey (1999-present), and Revista de Economia Relações Internacionais in São Paulo, Brazil (2006-present).

### **PROFESSIONAL ASSOCIATIONS**

Member: Council on Foreign Relations, Pacific Council on International Policy, International Institute of Strategic Studies, American Political Science Association, Latin American Studies Association, International Political Science Association, National Committee on United States-China Relations, US-Asia Council.

### **LECTURES**

Lectures at numerous institutions in the United States, including University of Arizona, University of Arkansas, Brandeis, Brown, University of California (Berkeley), UCLA,

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University of California (Irvine), University of California (Riverside), University of California (San Diego), Claremont, Colorado College, Columbia, Dartmouth, Dayton, Denver, Duke, Florida, Florida International, Georgetown, George Washington, Harvard, Johns Hopkins, Kentucky, Massachusetts, Miami (FL), Miami of Ohio, New Hampshire, New Mexico, North Carolina, North Carolina Central, Oberlin, Occidental, University of Oklahoma, University of the Pacific, Pennsylvania, Princeton, SAIS, San Diego State, University of South Florida, St. Olafs, Stanford, Swarthmore, Tufts, Vanderbilt, Vassar, Washington University of St. Louis, West Georgia College, Whittier, Yale, and other colleges and universities; Armed Forces Staff College, National War College, Western Hemisphere Security Institute and Inter-American Defense College; Foreign Service Institute; City Bar Association, New York; Inter-American Bar Foundation, Washington; National Association of Foreign Student Advisers; Inter-Action; Keynote Speaker, Business International Conference in Latin America; BusinessWeek Forum of CFOs; luncheon address, CFO meeting, Institutional Investor; Mexican Institute of Financial Executives (Monterrey, Mexico); presentations at American Airlines, IBM Corporate Headquarters, Chase Manhattan Bank, Esso Inter-America, The Capital Group, Wells Fargo Bank and other corporations; Americas Society (New York); Carnegie Endowment; Council on Religion and International Affairs; Foreign Policy Association; Institute of Policy Studies; The Conference Board; The American Society of International Law; Brookings Institution, American Friends Service Committee; American Association of University Women; Committees on Foreign Relations and World Affairs Councils in Albuquerque, Austin, Chicago, Dallas, Denver, Des Moines, Detroit, Indianapolis, Minneapolis, Omaha, Palm Springs, Phoenix, Portland, Salt Lake City, San Antonio, San Jose, Santa Barbara, Seattle, St. Louis, and Tucson; meetings of the Society of International Business Fellows in Charlotte, Dallas, and Nashville; Institute of the Americas (La Jolla); Public Policy Institute of California; and many other such organizations; as well as various institutions abroad, including Chinese Academy of Social Sciences; Latin America Institute, Moscow; El Colegio de Mexico, University of the West Indies; Instituto de Estudios Peruanos and CEPEI (Lima); CIEPLAN, Consejo Chileno de Relaciones Internacionales and FLACSO, (Santiago); INTAL and CARI Buenos Aires); CEBRAP, FAAP and University of São Paulo (São Paulo); FLACSO and CORDES (Quito); Simon Bolivar University (Caracas); EAFIT (Medellín, Colombia); University of Havana; SELA (Havana); FUNGLODE, Santo Domingo; Hebrew University of Jerusalem; Royal Institute of International Affairs (London); Oxford, Cambridge, University of London; German Association of Latin American Studies; Ortega y Gasset Institute (Madrid); Sophia University and International House of Japan (Tokyo); Japan External Trade Organization (JETRO); Hong Kong Forum; University of British Columbia (Vancouver); and many others.

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### **CONGRESSIONAL AND OTHER TESTIMONY**

Testified in the House or the Senate in 1973, 1975, 1976, 1977 (twice), 1981, 1982 (twice), 1983, 1985, 1988, 1990, 1991 and 1997, on issues such as Panama Canal, Central American crisis, Caribbean development, U.S. interests in Latin America, and U.S. policy regarding Latin American democracy.

Testified before the California Assembly on "Maintaining California's Mexican Connection" (1999).

### **INTERVIEWS**

Frequently interviewed by radio, television and press from the United States, many countries in Latin America and the Caribbean, Canada, and the United Kingdom.

### **CONFERENCES, MEETINGS, AND SEMINARS**

Papers presented at American Political Science Association, Latin American Studies Association, International Studies Association, Caribbean Studies Association, and Inter-University Seminar on Armed Forces and Society. Participant in conferences in China, France, Germany, Israel, Italy, Japan, Spain, Sweden, the Soviet Union, Taiwan and the United Kingdom, as well as numerous conferences in the United States and throughout Latin America and the Caribbean.

Chaired numerous seminars, conferences and meetings including the Faculty Colloquium on National Development at Princeton University (1972-75); the Peru Seminar at the Center for Inter-American Relations, New York (1973); various study groups at the Council on Foreign Relations, New York; the Inaugural Conference at the Institute of the Americas, La Jolla, California, (November, 1984); the conference on "Brazil in a New World" of the Inter-American Dialogue (December 1992); the West Coast Conference on "American Foreign Policy in the Clinton Era" held at USC (April 1993); a four-part series on Mexico under the auspices of the USC Center for International Studies and its California-Mexico project (February-April 1994); the Democratic Governance in the Americas conference at the Kellogg Institute at Notre Dame (April-May 1994); and the Inter-American Dialogue's project and conference on Democratic Governance (September 1994). I also organized the substantive program for the Western States Treasurers Association (October 1993); and chaired the plenary session of the conference of the Pacific Economic Cooperation Council (PECC) in Santiago, Chile on "Prospects for Transpacific Partnership" (September 1997). From 1995-2005, I chaired numerous workshops and panels of the Pacific Council. Since July 2005 I have participated in a number of conferences and workshops in the United States, Brazil, Chile, Argentina, Mexico, Peru, Spain and the United Kingdom.

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## **TRAVEL**

Caribbean area (Dominican Republic, Cuba, Jamaica, Barbados, Trinidad, Grenada, St. Vincent, Antigua, and Guyana), Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela; Belgium, Canada, Czech Republic, England, France, Germany, Hungary, India, Israel, Italy, Kenya, Luxembourg, Poland, South Africa, Spain, Sweden, the Soviet Union (Russia); Japan, Korea, People's Republic of China, Hong Kong and Taiwan.

## **RESEARCH PROJECT DIRECTOR**

- |           |   |
|-----------|---|
| 1974-1975 | Research project on "The Conduct of Routine Relations", Commission on the Organization of Government for the Conduct of Foreign Policy                  |
| 1976-1977 | Research Project on "Conflict and Cooperation in the Americas", Department of State   |
| 1980-1985 | "The United States and Latin America", Twentieth Century Fund   |
| 1986-1989 | The United States and Democracy in Latin America", World Peace Foundation, Social Science Research Council/American Council of Learned Societies        |
| 1990-1992 | "The California-Mexico Connection", John Randolph and Dora Haynes Foundation; William & Flora Hewlett Foundation; James Irvine Foundation               |
| 1990-1993 | "Latin America and the Changing International Context", The Pew Charitable Trusts   |
| 1992-1994 | "Political and Economic Liberalization in Latin America", USC/CIS with support from the North-South Center, University of Miami and the Ford Foundation |
| 1998-1999 | "Mexico's Transformations", Pacific Council Study Group, with support from the Ford Foundation and many corporate sources                               |
| 1998-1999 | "Managing California's Mexico Connection", Pacific Council Task Force   |
| 1999-2002 | "Latin America and the United States at the Century's Turn"   |

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- 1999-2005 “California’s Global Connections, Challenges and Opportunities”, funding from USC’s Southern California Studies Center (from Irvine Foundation grant), Public Policy Institute of California, the John Randolph Haynes and Dora Haynes Foundation, and the School of International Relations and Center for International Studies, USC.
- 2005-present "The Craft of Think Tank Institution Building: Working at the Nexus Between Thought and Action," funding from Rockefeller Brothers Fund, William and Flora Hewlett Foundation, John Templeton Foundation, Woodrow Wilson International Center for Scholars and School of International Relations, USC.
- Jan 2008-2010 “Rethinking US Policies and Relationships in the Americas,” funding from the Ford Foundation and Brookings Institution.

### **FUNDRAISING**

In connection with my responsibilities at the Council on Foreign Relations, Woodrow Wilson International Center for Scholars, Inter-American Dialogue, University of Southern California and the Pacific Council on International Policy, I have secured considerably more than \$15 million in grants, other than those to support my personal research, from foundations, corporations, individuals, governments and international organizations. Among the foundations from which I have secured grants (in many cases multiple grants) are, in alphabetical order:

The Ahmanson Foundation	William and Flora Hewlett Foundation
The Andrew Mellon Foundation	Conrad N. Hilton Foundation
The Asia Foundation	James Irvine Foundation
The Benton Foundation	John D. and Catherine T. Mac Arthur Foundation
Carnegie Corporation of New York	The Joyce Foundation
The Claire Giannini Fund	The North-South Center, University of Miami
The Edgerton Foundation	The Ralph M. Parsons Foundation
The Exxon-Mobil Foundation	The Pew Charitable Trusts
The Ford Foundation	Rockefeller Brothers Fund
The Freeman Foundation	The Rockefeller Foundation
The Bill and Melinda Gates Foundation	The Stanley Foundation
General Service Foundation	The John Templeton Foundation
The J. Paul Getty Trust	The Tinker Foundation
German Marshall Fund of the United States	The World Peace Foundation
John Randolph Haynes and Dora Haynes Foundation	

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Phone: 213-740-0793

## CONSULTING

- June 1974-December 1976, Special Consultant, Commission on U.S.-Latin American Relations ("Linowitz Commission")
- Various dates, Consultant for Ford Foundation, Rockefeller Foundation, Inter-American Foundation, Benton Foundation, William and Flora Hewlett Foundation; Charles F. Kettering Foundation, Roosevelt Center for American Policy Studies; NBC-TV, PBS; Transnational Research Corporation, The Futures Group, etc.

## PUBLICATIONS

### BOOKS

#### Single-authored volumes

- The Dominican Intervention (Harvard University Press, 1972). Published in Spanish (El Desatino Americano) in Santo Domingo in 1977. Reissued in paperback (with a new preface) by Johns Hopkins University Press, 1994.
- Partners in Conflict: The United States and Latin America (Johns Hopkins University Press, 1987). Second hard cover edition published in November 1987. Revised edition published in paperback in March 1988.
- Partners in Conflict: The United States and Latin America in the 1990s (rev. ed., 1990, Johns Hopkins University Press). Spanish language version, La Convivencia Imperfecta: Los Estados Unidos y America Latina, (Mexico: Nuevo Imagen, 1990).
- Global California: Rising to the Cosmopolitan Challenge (Stanford University Press, 2009).

#### Edited volumes

- Editor and Contributor, The Peruvian Experiment: Continuity and Change Under Military Rule, (Princeton University Press, 1975).
- Co-editor (with Cynthia McClintock) and contributor, The Peruvian Experiment Reconsidered, (Princeton University Press, 1983). Published in Spanish in Peru in 1985.
- Editor and Contributor, Armies and Politics in Latin America, (Holmes and Meier, 1976).

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- Co-editor (with J.S. Fitch) and contributor of second and completely revised edition, 1986.
- Editor and Contributor, Latin America and Caribbean Contemporary Record, Volume V (Holmes & Meier, January 1988).
- Co-editor and Contributor, Latin America and Caribbean Contemporary Record, Volume VI (Holmes & Meier, April 1989).
- Editor and Contributor, Exporting Democracy: the United States and Latin America, (Johns Hopkins, 1991).
- Co-editor (with Katrina Burgess) and Contributor, The California-Mexico Connection, (Stanford University Press, 1993). Published in Spanish by Siglo XXI in Mexico in 1995.
- Co-editor (with Gregory F. Treverton) and Contributor, Latin America in a New World, (Westview Press, 1994). Published in Spanish by Fondo de Cultura Economica in Mexico in 1996.
- Co-editor (with Jorge I. Dominguez) Constructing Democratic Governance: Latin America and the Caribbean in the mid 1990s (Johns Hopkins University Press, 1996).
- Co-editor (with Theodore J. Piccone and Laurence Whitehead) and Contributor, The Obama Administration and the Americas: Agenda for Change (Brookings Institution Press, 2009).
- Co-editor (with Theodore J. Piccone and Laurence Whitehead) and Contributor, Obama y las Américas; Esperanza o Decepción? (Grupo Planeta, 2010); Also to be published in English (Brookings Institution Press), and Portuguese (Fundação Getulio Vargas), forthcoming 2010.

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- "Latin America's Emergence: Toward a U.S. Response", (with Albert Fishlow), Headline Series 243, Foreign Policy Association (February 1979).
- "The United States and Brazil", Headline Series, #279, Foreign Policy Association, (October 1986).
- "The United States and Latin American Democracy: Lessons from History", World Peace Foundation Report, (February 1991).
- "Growth in the South: Latin America Takes Off", magazine issue co-edited with Nathan Gardels, New Perspectives Quarterly, Vol. 10, No. 4, (Fall 1993)

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- "The Challenges of Democratic Governance in Latin America and the Caribbean: Sounding an Alarm," an Inter-American Policy Brief, co-authored with Jorge I. Dominguez (September 1994).
- Major contribution to drafting the two reports of the Commission on United States-Latin American Relations (the "Linowitz Reports") 1974-1976 and six reports of the Inter-American Dialogue (1983, 1984, 1986, 1988, 1989, 1990).
- "Strengthening Southern California's International Connections: Boosting International Investment," published by the Southern California Studies Center, University of Southern California (1996)
- "Strengthening Southern California's International Connections: Regional-International Development Priorities," published by the Southern California Studies Center, University of Southern California (1996)
- "Latin America Today: Images and Realities," published by the Pacific Council on International Policy (August 1997). Published in Spanish in Tendencias Económicas y Financieras (Quito: August, 1997) and in Italian in America Latina (Bologna: November, 1997).
- Co-author of "Mexico Transforming," Report of a Pacific Council Study Group (February 2000)
- Contributor to and co-signer of Agenda for the Americas, 2005, Report of the US Policy Task Force of the Inter-American Dialogue (March 2005).
- Contributor to and co-signer of "Managing the US-Mexico Border: Cooperative Solutions to Common Problems," Report of the Pacific Council/Mexican Council on Foreign Relations Binational Task Force on the US-Mexican Border (September 2009).

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- "Foreign Aid as a Political Instrument: The Case of the Dominican Republic", Public Policy, (1965).
- "The Dominican Republic: The Politics of Chaos", in A. Von Lazar and R. R. Kaufman, Reform and Revolution: Readings in Latin American Politics, (Allen and Bacon 1969) reprinted in English and Spanish.



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- "Does Latin America Matter Anymore?", Military Review, (March 1991), pp. 60-62.
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### **Book Reviews**

Reviewer of all books on Latin America for Foreign Affairs, 1988-1993.

Book reviews in American Political Science Review, New York Times Sunday Book Review, Los Angeles Times Sunday Book Review, Political Science Quarterly, Hispanic American Historical Review, Chronicle of Higher Education, Commonweal, Foreign Affairs en Español, Journal of Cold War Studies and other publications.

### **Current Research**

I am currently doing research for a book project on “Rethinking U.S. Interests, Policies and Relations in the Americas,” being prepared for the Brookings Institution with support from a Ford Foundation grant. In conjunction with this project, I have spent some nine months in Latin America and the Caribbean since March 2006, conducting more than 180 interviews in 27 cities of 15 countries.

I have also done some 130 interviews for a project on “The Craft of Think Tank Institution Building: Working at the Nexus Between Thought and Action.” This project has been supported by the Rockefeller Brothers Fund, William and Flora Hewlett Foundation and John Templeton Foundation.

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# **EXHIBIT 3**

**DECLARATION OF** [REDACTED]

I, [REDACTED] hereby declare,

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

1. I am twenty-three years old. I currently live in a suburb of Atlanta, Georgia with my uncle and cousins.
2. I came to the United States from Mexico twelve years ago, as a young adolescent. My family came to the United States seeking work and better educational opportunities for their children. I do not have valid immigration status in the United States.
3. I have lived in Georgia for about twelve years. Many of my aunts, uncles, and cousins also live in Georgia.
4. I would like to be able to continue living in Georgia because it is the only home that I have ever known; I grew up here, went to school here, and my friends and family are all here. Georgia is my home.
5. Also, I feel like my future opportunities are much better in the United States. Although I was born in Mexico I have almost no memories of it, and my reading and writing skills in Spanish are such that I would struggle there.

Additionally, the United States is a much safer place with less violence than is found in Mexico.

6. I attended high school and college here in Georgia. About two years ago I was pulled over by a police officer for a minor traffic violation and charged with driving without a license. I was detained for a month by Immigration and Customs Enforcement, while they decided if they would remove me from the United States. Fortunately I was granted a deferred action, a discretionary decision by Immigration and Customs Enforcement not to arrest or deport me, allowing me to remain in the United States.
7. Deferred action is typically granted for twelve months, but can be renewed. My deferred action would have expired in a few months ago, but it was renewed and is now valid through May 2012. With my deferred action status I was able to obtain a Georgia driver's license last year, but that license expired when my first deferred action period ended. Currently I do not have a valid Georgia driver's license, I am waiting on my work permit so I can obtain a new one, which could take several months.
8. I am concerned that if HB 87 goes into effect, that I could be targeted and stopped. Since I currently don't have any of the specified documents in HB 87 I could be detained by a police officer while they verify my status. I



worry because I usually don't carry my order for deferred action because it is simply a piece of paper and could easily be damaged. Even if I did carry it, I worry that a police officer might not know what to make of it or know whether it was still current and valid. As such I could be detained longer than ordinary just because I currently don't have Georgia driver's license or other identification.

9. Even once I have a new Georgia driver's license, I will likely reduce the amount of driving that I do if HB 87 goes into effect. I worry that because HB 87 is aimed at people of color that I might be stopped frequently because I look Hispanic.
10. I worry that the community in general would suffer since parents who are undocumented immigrants would be less willing to drive their children who are U.S. citizens to extra-curricular activities that could benefit the youth and society.
11. Additionally I worry that if HB 87 goes into effect that immigrants would be less likely to interact with the police because of fear that they might be questioned about their immigration status. For me personally, I would be less likely to report a crime whether I was a victim or just happened to witness it, because I wouldn't want to be questioned the entire time about

my immigration status. I feel like this would be a big impact on crime rates and people's lives since criminals would go unpunished.

I declare under penalty of perjury that the forgoing is true and correct.

Executed this 3 day of June, 2011 in Fulton County, Georgia.

A large black rectangular redaction box covers the signature area. A horizontal line extends from the right side of the box, indicating the location of the signature.

# **EXHIBIT 4**



DECLARATION OF DAVID S. KENNEDY, JR.

I, David S. Kennedy, Jr., hereby declare:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so completely as follows.

1. I was born in Atlanta Georgia in 1975. Both of my parents are U.S. citizens, and, with the exception of attending college in Tennessee, I have lived in Georgia for my entire life.
2. I received my Juris Doctor Degree from the University of Georgia, School of Law. I am currently an active member of the Georgia State Bar and am employed at Corso, Kennedy & Campbell, LLP, in Gainesville, Georgia, and have an additional office in Chamblee, Georgia.
3. I have a number of friends and clients who are undocumented immigrants. I am especially concerned with HB 87 going into effect because I frequently see clients in my office and give rides to clients, who are undocumented immigrants, to immigration court, to infopass appointments and other appointments which are in furtherance of my legal representation of each client but are not proceedings at which "such illegal alien is required to appear pursuant to

a summons, subpoena, court order, or other legal process," or in other legal dealings.

4. Immigration law is my primary area of practice, and as such I am concerned that the harboring provisions of HB 87 provide an exception for criminal attorneys only, and not for immigration representation.

5. Because I am an immigration attorney and I am serving my clients, it is my business to know their immigration status. If HB 87 goes into effect and I am stopped by an officer for a minor traffic offense, such as speeding or failing to signal when changing lanes, and I am giving a ride to a client, I could be guilty of transporting and/or harboring an illegal immigrant and could face jail time. Though I try to obey every law, I often do commit very minor traffic offenses while driving, such as speeding or failing to signal properly, and I expect I will continue to do so in the future.

6. In order to assert most forms of relief from removal in immigration court, the "respondent" in such proceedings has to admit that he or she is not a citizen or national of the U.S. and that he or she "removable," which means that they are present in violation of federal immigration law.

Therefore, even if I were not giving a ride to a client, if

I were to rear-end another car, and thus commit the offense of following too closely, while I am on the downtown connector (75/85) hurrying to get to court to represent a client, I would be violating provisions of HB 87 by committing another criminal offense while engaging in "harboring" an undocumented immigrant by rushing to court and thus "substantially help[ing] the individual to remain in the United States in violation of federal law." It is not too difficult to come up with many different ways that an attorney could be guilty of violating this statute by simply engaging in the legal representation of their clients.

7. In addition if I were to help an undocumented immigrant attempt to stay in the country by applying for forms of temporary or permanent relief such as deferred action, cancellation of removal, or adjustment of status, then I could be guilty of helping an undocumented immigrant to stay in the country. I provide these services to people nearly every day and I will continue to do so in the future -- it is my job to do so.
8. The practice of immigration law is my family's sole source of income and if I were to be arrested for assisting a

client my family would be severely, perhaps irreparably, harmed.

9. Some of my clients reside outside the state of Georgia, and some of them reside in Georgia but have immigration court cases in other states. I have worked with clients from many other states such as North Carolina, Alabama, Texas, and Arizona, and have had them come to Atlanta for legal work regarding their immigration status. For the same reasons I explained above, HB 87 criminalizes my activities because I could be accused of inducing the clients to come into the state of Georgia. Because practicing immigration law is my business, I logically am doing it for a profit. Inducing an undocumented immigrant to enter the state for a profit causes a violation of this statute to be a felony. This is preposterous because it again fundamentally interferes with the relationship I have with my clients.
10. Additionally I worry that If HB 87 takes effect then I could be discriminated against and pulled over because I am driving a Hispanic client. It is abhorrent to me that my children will be living in a state that tells them that racism or racial profiling is acceptable.


11. I am concerned that HB 87 will interfere with my client's right to counsel, and the right to counsel of all

people residing in Georgia. There are many different ways that this statute could be interpreted to essentially criminalize the practice of law. The right to counsel does not extend only to criminal cases, but rather applies across the board. Apart from criminalizing the practice of immigration law, HB 87 could interfere with the people's right to counsel in many other sorts of cases: fighting for the custody of an immigrant's children; helping an immigrant to purchase a home or land; seeking damages on behalf of an immigrant who has been involved in an accident, thus providing him with the funds to remain in the State. Attorneys or other people familiar with the law could dream up countless examples of situations in which attorneys could be accused of committing a crime by zealously representing their clients as attorneys are ethically bound to do.

12. I worry that if HB 87 goes into effect anyone, including a person who does not look like a traditional immigrant, could be asked for evidence that they are lawfully in the country. If we actually believe that police will refrain from taking appearance or English language ability into account in detaining people to verify their immigration status, this law essentially mandates that I,

and everyone else, have to carry proof of citizenship at all times. There is no law that requires you to have identification at all times, much less that you show it to a police officer on demand. But HB 87 does imply the creation of a law that requires each and every individual to carry proof of citizenship or risk being arrested and subjected to removal proceedings for being undocumented. I am concerned as to what would happen to my elderly grandmother who doesn't have a driver's license because she is unable to drive. I worry that she could be arrested for not having an ID.

I declare under penalty of Perjury that the foregoing is true and correct. EXECUTED this 3 day of June, 2011 in Gainesville Georgia.

  
\_\_\_\_\_  
David S. Kennedy, Jr.



# **EXHIBIT 5**

**DECLARATION OF PAUL BRIDGES**

I, Paul Bridges, hereby declare:

I make this declaration based on my own personal knowledge. If called to testify, I could and would competently state what follows.

1. I was born in 1952 in Vidalia, Georgia. I grew up in Treutlen County and went to school in Soperton, the county seat. I have spent most of my life in Southeast Georgia. I am a United States citizen.
2. I currently serve as the mayor of Uvalda, Georgia. I moved to Uvalda in 2004 and I was elected mayor in November 2009. My term as mayor began in January 2010. I am a Republican. Uvalda is a town of approximately 600 people in Montgomery County. Our town is in a rural, agricultural area known for its production of Vidalia onions.
3. I worked for 23 years at the Hatch Nuclear Power Plant in Baxley, Georgia as a nuclear specialist and contract administrator. I retired from Plant Hatch about six years ago. I have a master's degree in literacy and have taught English as a Second Language, Spanish, and GED prep courses.
4. In addition to my job as mayor, I keep a small dairy goat farm on my land. I have 15 goats and I use their milk to make homemade soaps and cheese.



5. I ran for mayor because I wanted to make Uvalda a better and fairer place for everyone to live. I felt that some town residents were treated unfairly because they were not part of the “good old boys” network. I also wanted to make the town government more transparent, to involve the residents of Uvalda in more activities, and to make concrete improvements to our town, such as upgrading parks and the baseball field. I also hoped to try to reverse the downward economic trend our town has experienced for many years.
6. About ten years ago, I met and became friends with a family of immigrants from Mexico. They had moved to Southeast Georgia to work in the onion fields. They taught me Spanish and I taught them some English.
7. Over the past decade, I have noticed that many more Spanish-speaking people have moved to Southeast Georgia. Some come to work on the onion harvest and then move on to other crops in other states, but many have decided to make their homes in Uvalda and surrounding towns. Many of these people who came to the Uvalda area to harvest Vidalia sweet onions are my friends and neighbors.
8. Because I can speak Spanish and English and many Latino people in the Uvalda area know me, I have often been asked to assist with interpretation in different places, such as schools, doctors’ offices, and court settings. I

happily assist my friends and neighbors with interpretation when asked, because I know that without me they often would have no way of communicating.

9. I have also provided rides to people I know lack immigration status in the United States. The people I have given rides to are my friends and neighbors and many of them cannot drive because they are unable to obtain Georgia driver's licenses. I have driven people I know to be undocumented to places such as the Mexican Consulate in Atlanta, churches, the grocery store, appointments at doctors' and dentists' offices, and soccer tournaments in towns neighboring Uvalda, among other places.
10. I give rides to my undocumented friends on at least a daily basis. I plan to continue to drive my undocumented friends wherever they need to go when I am able to help. Sometimes I go above the speed limit, or forget to signal when changing lanes, when I am driving my undocumented friends.
11. If HB 87 goes into effect, I fear that I may be pulled over by police if I am going above the speed limit or forget to signal and that I will be subject to prosecution for driving my undocumented friends to their appointments and events. It is important to me to be able to help my friends by giving them rides to the doctor's office, the grocery store, and other essential places they

need to go, often with their U.S. citizen children. Uvalda is a small town with few stores, no restaurants, and no doctors' or dentists' offices. If I do not drive my undocumented friends to where they need to be, they will not be able to get to these places.

12. I am also worried that if HB 87 goes into effect and I am pulled over while driving my undocumented friends to their appointments, the police might question my friends' immigration status.

13. In the past, I have traveled to towns in Florida to pick up friends who were working on the tomato harvest, and I have given them rides back to Georgia. I believe some of these people were undocumented. I plan to give rides to them again when they need to come back to Georgia. When I drive back into Georgia on these trips, I sometimes go above the speed limit.

14. I understand that if HB 87 goes into effect, I could be prosecuted for giving these people rides from Florida to Georgia, even though I do not charge them for the rides.

15. In the past, I have also opened my home to family members of my friends and have allowed them to stay with me if they need a place to live. I have done this about twice a year over the past decade, when family members are coming through the area to work on the Vidalia onion harvest and other

products like blueberries, and pine straw. I am pretty sure some of these people were undocumented when I gave them a place to live. I plan to continue to allow undocumented friends and acquaintances to live with me in the future if they need a place to stay.

16.If HB 87 goes into effect, I fear that I could be prosecuted for sheltering my friends and neighbors in my home. I should be able to invite whoever I want to stay with me in my private home, but HB 87 makes me a criminal for giving my friends a place to live.

17.HB 87 will terrorize my Latino friends and neighbors in Uvalda. I know many people who are undocumented but whose children were born in the United States. I am worried about what will happen to those children if their parents are picked up by immigration because local police are enforcing HB 87.

18.I am also worried about what will happen to the economy in our town and the surrounding areas if HB 87 goes into effect. I am afraid that there won't be enough workers to pick the Vidalia onions because many immigrant workers will leave Georgia. If businesses such as the onion farms and the pine straw companies cannot operate because they do not have enough

workers, this will have a negative impact on all the businesses of Uvalda, as well as our tax base.

19. I am also concerned about the cost to Uvalda of having to house people who are arrested because of this law. When someone is arrested in our town, we have to pay a daily fee to house arrestees in the jails of surrounding counties. We can't use our own city jail or the Montgomery County jail because they are nonfunctional. If we have to enforce HB 87, Uvalda will face enormous costs that we cannot afford.

20. The human cost of HB 87 concerns me above and beyond the economic impact that I believe the law will have on Uvalda if it goes into effect. HB 87 will separate families and turn people like me into criminals for helping our friends live in our small town.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 5-28-2011

  
Paul Bridges

# **EXHIBIT 6**

**DECLARATION OF BENJAMIN SPEIGHT**

I, Ben Speight, make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

1. I am 29 years old, and was born in Charlotte, North Carolina. At the age of four my family moved to Georgia. I grew up in Newnan, Georgia and graduated from Fayette County High School in 2000. I graduated with a BA in Political Science from Valdosta State University in Valdosta, GA in 2004. I am a United States citizen.
2. I have lived in Atlanta for the last three and a half years. I have a valid Georgia driver's license.
3. In 2004, I joined the Teamsters Truck Drivers and Helpers Local 728 when I began working as a sorter at the United Parcel Service ("UPS"). Since September of 2007, I have been the Organizing Director for the Teamsters Truck Drivers and Helpers Local 728.
4. As a representative of a worker organization here in Georgia I oppose HB 87 as well as the messages the supporters of this law have put out. These supporters have falsely claimed that undocumented workers are taking jobs from U.S. citizens, and I contend and support the immigrant communities' position that that is a myth. The Teamsters

Local 728 represents 7,000 workers in Georgia and not a single undocumented worker has taken a single member's job.

5. I believe my role as a union organizer is to protect the rights of all workers. The Teamsters take an oath of membership that states that we will not discriminate against a sister or brother based on their nationality or race. I take the terms sister or brother to mean broadly speaking, *all* working people, without regards to immigration status.
6. In my capacity as an organizer for the Teamsters I drive a union issued Ford E-350 twelve passenger van. I regularly transport union members and staff to and from union meetings and organizing campaigns in this van. This van is also my main personal means of transportation. I drive it to the grocery store; I drive it to events in support of immigrant rights; I can also drive my mama to church in it, if I want. I am allowed to use this van seven days a week for personal use however I see fit.
7. One example of my personal use of the van is that on or about the first weekend in April this year, I transported a group of undocumented students from Pebblebrook High School in Mableton for an immigration workshop and training on civil disobedience. Once



HB87 is implemented I will continue to transport undocumented students as needed. I also receive and send text messages while driving these students. I also sometimes don't come to complete stops at stop signs and, from time to time, I drive above the speed limit. I know that HB 87 will make my transporting of undocumented students a crime, but I will continue to do this.

8. Since HB87 was signed by the governor, people have been organizing to provide undocumented people rides to and from church and work sites as well as to and from human rights zones and "BuySpots" or local businesses, organizations and institutions that have pledged to support human rights for all communities and who plan to oppose the criminalization of communities through non-compliance and targeted advocacy. I am part of this effort and will be assisting undocumented individuals by providing them free transportation. As I have done in the past, I will also receive and send text messages while driving these individuals and will occasionally fail to come to complete stops at stop signs and, from time to time, I will drive above the speed limit. As a result, I fear that I will be subject to criminal prosecution under HB 87.

9. I've told lead organizations that are organizing non-compliance and targeted advocacy in opposition to HB87 that I will drive the van for their purposes both inside and outside the state of Georgia.
10. The costs I would pay as a U.S. citizen and Georgia resident as a result of violating this law if I am suspected of harboring, transporting, or inducing undocumented immigrants to come to Georgia are egregious and in violation of my own constitutional rights. It would be unconscionable if I was punished for these humane efforts, but I truly fear it could happen. However, I have to take on this risk because if I don't, the disruption of the lives of immigrant working families and innocent people of color who are unjustly criminalized by this law will be even worse.
11. I am going to do everything I can to help my undocumented brothers and sisters if HB 87 takes effect and am prepared to knowingly violate this unjust law.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 31<sup>st</sup> day of May, 2011 in Atlanta, Georgia.

  
\_\_\_\_\_  
Ben Speight

# **EXHIBIT 7**

**DECLARATION OF EVERITT HOWE**

I, Everitt Howe, hereby declare:

I make this declaration based on my personal knowledge and if called to testify I could and would do so competently as follows.

1. I am 65 years old, and I was born in Coral Gables, Florida. I am a U.S. citizen and have been a resident of Georgia since 1986.
2. I retired from the U.S. Air Force as Lieutenant Colonel in 1989. Subsequently, I worked for Pan American Airlines until 1991, and then I worked for Lockheed-Martin from 1992 to 2005.
3. I was the Vice President of the Fulton County chapter for Atlantans Building Leadership for Empowerment (“ABLE”), an interdenominational social justice organization composed of 27 congregations and organizations. In this role, I represent my church, St. Jude’s Catholic Church, located in the Sandy Springs neighborhood. Our St. Jude ABLE group has organized and led English language classes for 11 years now.
4. I also serve as a caseworker in a community service program at my church, primarily serving residents in the area covered by the 30328 zip code and a part of the 30350 zip code. The program offers a variety of

services, including providing advice on legal or tax matters, food support, and direct financial aid to families and individuals in financial hardship.

We serve about 100 families a month through this program. We do not inquire into the immigration status of the individuals we serve, but our clients include some undocumented immigrants.

5. As part of my involvement in the program, I regularly accompany and drive families and individuals who may be undocumented immigrants to hospital visits or other appointments. For example, I have been driving an undocumented young man who is suffering from leukemia to the Emory Hospital in Decatur for his cancer treatment once a week for the past four months.
6. I have also provided assistance to and regularly driven a family with mixed immigration status for the past eight months. The family is composed of the parents who are undocumented immigrants and their 16-year-old daughter who is a U.S. citizen. The father suffers from a kidney failure, and needs regular dialysis and medical care. I have driven him to the traffic court in the past and paid a large part of his fines in order to prevent his incarceration and allow him to continue to work and support his family. I have also helped the daughter obtain her Georgia learner's

permit, both by driving her and her family to the Department of Driver Services and providing driving instruction.

7. In the course of these trips, I have accidentally run a red light on one occasion. I have also had some issues with an intermittent tail light on my car, and it is possible that I may be stopped in the future for minor traffic violations such as a malfunctioning tail light while I am driving with my clients. I fear that under HB 87, I could be found criminally liable for these activities.
8. I also teach English language classes at my church. We do not inquire into immigration status for these classes. These classes used to be a thriving part of our ministry and used to have an attendance of about 100 students a week. However, there was a dramatic decrease in attendance this year; the number dwindled from about 25 to about 12 students at present. This is an average of about 2-3 students for each of our 5 levels of classes, and we may have to cancel the classes altogether as a result. The decline in attendance is directly attributable to people's fear around HB 87. I know this because my students have told me so.
9. Because my church offers these English language classes as well as masses in Spanish and Portuguese, we have been accused of wrongdoing

or inappropriately helping immigrants. For example, after SB 350 became law, we provided information to our students about its effects during class time. One of the English language instructors grew upset and quit, with an accusation that we were encouraging undocumented immigrants to live here.

10. Several of my clients or acquaintances have also recently decided to leave Georgia as a result of HB 87. A girl who was hoping to pursue medical studies here has now decided to move with her family to Brazil because of the general atmosphere of hate and fear created by the law. Another couple I know has decided to move back to Honduras for similar reasons even though the husband is a U.S. citizen and the wife is a documented immigrant.

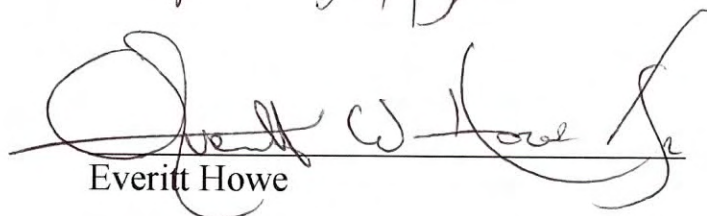
11. It is not just the undocumented immigrants who are feeling intimidated as a result of HB 87. A few days ago, I forgot to take my wallet and my driver's license with me when I left my house. My car broke down on I-285, and I pulled over to the side of the highway. A police officer stopped to ask if I needed assistance. I said I had AAA on the way and he said ok. Even though no negative incident occurred, I felt nervous during the encounter because I was wearing a t-shirt which read "We are all

undocumented,” produced by Georgia Detention Watch. I felt relieved that he did not ask to see my driver’s license since I did not have it with me. If HB 87 had been in effect when this happened, I could have been detained and questioned simply because I did not have in my possession one of the documents the law requires.

12. I am deeply disturbed by HB 87 in its entirety, that it fosters an intentionally intimidating, inhumane, and uncertain environment for every individual in Georgia, whether an undocumented immigrant, a U.S. citizen, a law enforcement officer, or an attorney. In addition to specific provisions of the law that may directly impose criminal liability for activities that I have long engaged in legally, I am afraid the vagueness of the law will result in an overzealous enforcement and compliance efforts by confused and scared law enforcement officers and citizens who have to live with an uncertain anxiety of not knowing exactly what may constitute legal and illegal conduct.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 30<sup>th</sup> day of May, 2011 in Spartanburg GA.

  
Everitt Howe



# **EXHIBIT 8**

**DECLARATION OF PAUL C. EDWARDS, JR.**

I, Paul C. Edwards, Jr., hereby declare:

I make this declaration based on my personal knowledge, and if called to testify I could and would do so competently as follows.

1. I was born in Oceanport, New Jersey, in 1970. I am a United States citizen.

I have lived in Georgia since 1981, and I currently reside in Cobb County.

2. I have a Georgia driver's license. My driver's license was issued in 2007.

3. I am a Christian, and as such, I strongly believe in providing help to all individuals in my community regardless of their immigration status. My religious beliefs encourage actions that will be labeled as criminal offenses if HB 87 is allowed to take effect.

4. As a part of my religious commitment, I transport people to places of worship and to locations which provide medical assistance. I understand that some of the people I transport lack immigration status. When transporting individuals, I have on occasion exceeded the speed limit to arrive on time, and I have had a tail light in the vehicle I was driving burn out. In the future, I could be charged with a crime under HB 87 for my transporting activities. To the best of my memory, my last speeding citation was September / October 2008. I also had car-related citations in June 2008

for speeding, January 2006 for an improper turn, December 2005 for a traffic signal violation, and August 2002 for speeding. I have had other citations previous to 2002 and had citations while driving a motorcycle as well.

5. I am a board member of Alterna, Inc., a 501(c)3 non-profit ministry based here in Georgia that offers direct services to the Latino immigrant community. On a regular basis, members of Alterna transport immigrants to appointments to places like a doctor's office, court, and their children's school. Alterna has offered transitional housing to immigrants in crisis and has recently launched El Refugio, a house located outside the Stewart Detention Center where we welcome the stranger who is visiting a loved one detained for deportation proceedings. I am not only a board member but an active volunteer, particularly at El Refugio. Could these acts of faith, hospitality, and conscience be considered unlawful acts of harboring under HB87? I also independently advertise my availability to transport individuals in need. The advertisement of my services is mostly by word of mouth. Usually, individuals within the community approach me when they need transportation. Under HB 87, these actions could be considered assisting, transporting, and harboring undocumented individuals in the state

of Georgia, which would make me liable for providing assistance to these members of the community.

6. HB 87 creates a dire problem for me. As a Christian, I am supposed to help other members of the community, particularly those who are poor, marginalized, ill, a stranger from another land, and/or suffering. For example, see The Holy Bible, Book of Mathew 25:31-46. My motivation to transport individuals in need is strongly guided by my religious beliefs.

HB 87 transforms these actions into a violation of Georgia laws thus making me susceptible to a charge of a misdemeanor or a felony.

7. Individuals in my community have been afraid to drive since the adoption of the 287(g) program by Cobb County in February 2007. They, thus, rely heavily on my ability to transport them in order to attend religious services and non-emergency medical services. If HB 87 goes into effect, individuals in the community will be even more afraid to drive, and I will be criminally liable for helping these individuals and following my religious beliefs.

Without my help, these individuals may not be able to attain transportation and be denied religious practice and non-emergency medical care.

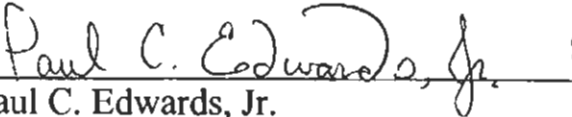
8. I have friends who I know are undocumented, with whom I partake in social activities such as dinner. These activities would be impaired by HB 87

because I would not be able to drive them to such events. HB 87 also makes me criminally liable for inviting out of state undocumented friends into my home. It puts a strain on my relationships with my friends from out of state.

9. I have concerns for my community with the passage of HB 87. In the past, I had friends who were involved in traffic accidents. There was a witness that could provide information that would result in a ticket being issued to the other party in the accident. However, because the passenger in the vehicle did not have documentation, they were too afraid to get law enforcement further involved. Therefore, the person who committed the car accident got away without being reprimanded. Laws such as HB 87 increase fear within the immigrant community and will most likely lead to similar incidents and result in a decrease in safety in our community.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 31st day of May, 2011 in Smyrna, GA.

  
Paul C. Edwards, Jr. 2 June 11

# EXHIBIT 9

**DECLARATION OF SHARON GRUNER**

I, Sharon Gruner, make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

1. I am 25 years old, and was born in Mexico. I moved with my mother and father to the United States when I was sixteen years old, and I became a U.S. citizen in approximately 2008. I reside in Dalton, Georgia, and I have lived here for about two years since graduating from Southern Polytechnic Institute in Atlanta, Georgia, with a bachelor's degree in Industrial Engineering. I am currently a graduate student in Industrial Organizational Psychology at the University of Tennessee, Chattanooga. I am fluent in English and in Spanish.
2. I have a valid Georgia driver's license.
3. I volunteer with CLILA, the Coalición de Lideres Latinos, in Dalton, Georgia. As part of that work, I regularly drive our members home after English classes and meetings. I have driven people who do not have immigration documents for living and working in the United States. Sometimes the people I have driven have told me they do not have these documents, and sometimes I drive people home on purpose

because they do not have immigration documents. While driving these members home, I sometimes accidentally drive over the speed limit or fail to stop completely at a stop sign.

4. I am stopped about once every three months by police because the lights on my car sometimes do not function properly. There is an electrical problem with my car and occasionally the lights malfunction. So far, I have only received warnings, but I am afraid that if HB87 is implemented and I am stopped while driving CLILA members home, I will be prosecuted for transporting undocumented immigrants after the police stop me for my car's malfunctioning tail lights and brake lights.
5. Even if HB 87 goes into effect, I plan to continue to offer rides to undocumented people who come to CLILA for classes. The classes and other activities offered at CLILA are important services for the community, and I am proud to be able to volunteer for that organization. I am an immigrant myself, and I want to do all I can to support the immigrant community in Dalton, Georgia. I will continue to have problems with my car's tail lights and I do accidentally speed occasionally.

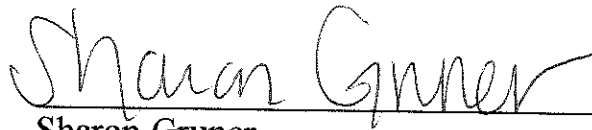


6. Last Saturday, May 21, 2011, I drove undocumented children in my car and took care of them in my home. Their mother had just been arrested for driving without a driver's license. Their stepfather, a member of CLILA, called my mother to ask her to go get the children from the roadblock. My mother asked me to take care of the children, so I drove them around town to entertain them, and then took them to my home so they could spend the night. Their stepfather came to get them the next day.
7. If I come across another situation like this, where undocumented children need help, I will again offer my assistance to the children. I think it is terrible that children are torn from their families and left abandoned when their parents are arrested. I cannot believe that helping children in this way should be considered breaking a law. Whitfield County has become an inhumane place for immigrants to live now that 287g has been implemented, and I am afraid that it will get much worse if HB87 is implemented.
8. The fines I would pay as a result of violating HB87 if I am suspected of harboring or transporting undocumented immigrants are extremely high and I would not be able to afford to pay them. I am a student

with a summer internship and a work-study position during the school year. I do not have enough income to pay these outrageous fines. I am also shocked at the punishment of jail time for violating this part of HB87. Nevertheless, I believe in the volunteer work I do, and I believe in helping children whenever they need it, so I will continue these activities and risk violating HB87.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 1 day of June, 2011 in Dalton, Georgia.

  
Sharon Gruner

# **EXHIBIT 10**

**DECLARATION OF** [REDACTED]

I, [REDACTED] hereby declare:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

1. I was born in Atlanta Georgia in 1981. I have lived in Georgia my entire life, and currently reside in Ellenwood, Georgia. My Dad is originally from Georgia and my Mom is from New York. Although my parents and I all were born in the United States, I am of Hispanic descent.
2. I currently have a valid Georgia driver's license.
3. My husband is an undocumented immigrant. If HB 87 goes into effect, I will be afraid to travel within Georgia with my husband. This is a large problem for us since my husband is unable to drive due to a disabling injury that he received on the job a few years ago. Since that time, he has needed to be driven to regular physical therapy sessions and doctor's checkups by either myself or a driving service. I would be afraid to drive him to his appointments in Alpharetta or Clayton, and we worry about what would happen if we were stopped, but we can't afford to use a driving service all the time. We worry about what would happen to our three young children if he were deported or if I were arrested for transporting an undocumented

immigrant. I could not provide for my children as well without my husband here to help raise them. We work together to raise the three children, and without him I worry that I wouldn't be able to accomplish the daily house work. I worry for my own health if he were to be deported, since my stress level would increase, negatively affecting my health.

4. I am concerned that if HB 87 goes into effect it will increase racial profiling. In the past when my husband and I are out in public we have preferred to speak in Spanish since we are more comfortable with it. However, now I worry that because of the way we look and speak we will be profiled against and targeted by the police. My husband and I will reduce the amount we drive. Although I'll drive my husband, I'll be afraid to drive with him because we are both from Hispanic descent and speak Spanish. I worry that we will be racially profiled by law enforcement and subjected to discriminatory stops based on the way we look and talk. He will be even more afraid because of his immigration status. Right now we go to stores, restaurants, and movies or other places with our kids. If HB 87 takes effect, we would probably go less often to those places because we will want to avoid law enforcement and lessen the risk of being racially profiled.

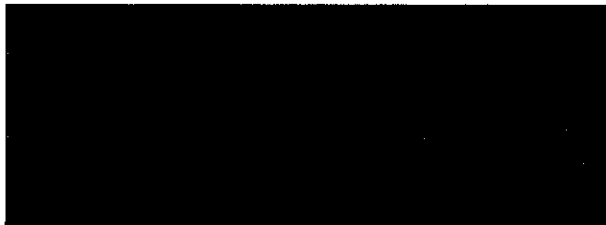
5. I worry that if my name was made public as part of this lawsuit, the police might recognize it in a routine traffic stop. A police officer who was upset that I am part of this lawsuit might decide to check my husband's immigration status to punish me for standing up against this law. I also worry that my neighbors or other supporters of HB 87 might try to persecute me or my family
6. I worry too, that my children will grow up without really knowing their family who live in Florida because, as undocumented immigrants, if they come to Georgia they could be stopped on account of HB 87 and deported. In addition if I were to invite them and they came to stay with me I could be arrested for harboring an undocumented immigrant, even though they are my family. Traveling to Florida to see them frequently would be difficult and straining on our budget, and I would be afraid to drive there with my husband since the long drive through Georgia would provide more opportunities for us to be stopped by the police.
7. I can't imagine what will happen if HB 87 takes effect. I will always be wondering if everything is going to be okay. Every day, I will wonder if my husband will be picked up by ICE. I will worry about our undocumented friends and what is going to happen to their children if they are stopped by the police and

referred to immigration. I will worry about what will happen to my own children if I were to be arrested for driving my husband somewhere. I have suffered in the past from a heart condition and depression, since HB 87 was passed both my heart condition and depression have gotten worse and I am currently going to the doctor to seek help with the problems caused by my anxiety. I worry HB 87 will separate and hurt families, especially mine.

8. I am also afraid that if HB 87 takes effect the police will not believe me if I say I am a U.S. citizen. Because I am Hispanic, a police officer may assume I am undocumented. If the officer asks me to prove that I am a citizen, I will have nothing to show them. I don't carry my passport or birth certificate around with me. I don't feel that I should have to carry other documents besides my license or state identification to prove that I am a U.S. citizen.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3 day of June, 2011 in Fulton County, Georgia.



# **EXHIBIT 11**



**DECLARATION OF GEORGE GASCÓN**

I, GEORGE GASCÓN, hereby declare:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

1. I am currently the District Attorney of San Francisco, California. I was appointed to this position on January 9, 2011.
2. Prior to assuming the role of District Attorney, I was the Chief of the San Francisco Police Department, a post I held from August 1, 2009 to January 9, 2011. I have over 32 years of law enforcement service, including: 3 years' service as the Chief of the Mesa Police Department in Mesa, Arizona; and 28 years as a member of the Los Angeles Police Department, beginning as a patrol officer and working my way up through the ranks to Assistant Police Chief, a position that I held for approximately 4 years.
3. I currently sit on the Board of Directors of the Council of State Governments' Justice Center and was formerly on the Board of Directors for the Police Executive Research Forum and the California Peace Officers' Memorial Foundation.

4. I received a Juris Doctor Degree from Western State University, College of Law and I am currently an active member of the California State Bar.
5. Additionally, I am a graduate of the FBI's National Executive Institute and a member of the Harvard University Kennedy School of Government's Executive Session on Policing and Public Safety.
6. I have published articles on the subject of police accountability, community policing, police training, and hiring practices.
7. I have read and reviewed Georgia's new immigration enforcement law, HB 87, and I make this declaration based on over 32 years of law enforcement experience.
8. If HB 87 is implemented I believe it will decrease community safety and increase mistrust of police for a number of reasons. First, because HB 87 leaves it to the discretion of the individual officer whether to investigate the immigration status of individuals routinely encountered in the field, HB 87 creates an unacceptable risk that officers will make arbitrary decisions about when to conduct immigration status checks based on nothing more than physical appearance, perceived race/ethnicity, or manner of speaking of the individual. The combination of provisions in HB 87 that invite law enforcement officers to conduct immigration status checks and other

provisions of HB 87 that incentivize law enforcement participation in immigration enforcement, such as those found in Section 9, create an environment in which racial profiling, pretextual stops, and other constitutional violations are likely to occur. I believe that officers who want to ensure that they comply with the law will naturally exercise their maximum authority under HB 87 by conducting immigration status checks on all individuals stopped, detained, or arrested, where they believe, based on physical appearance or otherwise, that the person is undocumented.

9. If HB 87 goes into effect, there will be an increase in the incidents of pretextual stops of individuals of color in Georgia, as some law enforcement officers will use pretextual reasons to stop or question individuals they believe to be in the United States illegally. HB 87's requirement that immigration status inquiries only follow probable cause to believe an individual has committed a criminal violation does little to guard against the likelihood of increased pretextual stops. This is because an officer motivated by racial or ethnic discrimination or by race-based stereotypes of what an illegal immigrant looks like can easily find a pretext for stopping an individual, for example by following a car until a minor traffic violation occurs. Under the provisions of Section 8, even minor traffic violations such

as failure to come to a complete stop qualify to permit an officer to inquire about a person's immigration status. HB 87 also creates immunity for officers who elect to enforce immigration laws under the HB 87's other provisions, which further increases the risk that officers will engage in racial profiling or pretextual stops.

10. By encouraging Georgia law enforcement officers to check immigration status in the course of their regular policing duties, immigrant and minority communities will be reluctant to contact the police because of fear that such contact will lead to investigations into immigration status. As a result of the fear that HB 87 will create, fewer victims of and witnesses to crime will come forward and call the police out of fear that doing so will result into investigations into immigration status of the victim/witness, his or her family members, neighbors or other persons close to him or her, perhaps leading to their deportation. When police officers lack the trust and cooperation of the community members they are sworn to protect, this undermines public safety for the entire community.

11. HB 497 will drive a wedge between immigrant communities and the police and the alienation that will result will not be limited to cases where the victim of or witness to the crime is undocumented. In a great many cases,

individuals live in mixed status households and neighborhoods, meaning that some members of the household or neighborhood are U.S. citizens or otherwise have legal immigration status while others do not have legal status. HB 87's provisions encouraging police inquiry into immigration status will dissuade even community members with lawful status from contacting the police out of fear of deportation of a family or community member.

12. The resulting harm to public safety will impact all communities in Georgia because it creates a vacuum in law enforcement. Criminal elements in Georgia will feel emboldened to commit crimes by the belief that they have less reason to fear being reported by victims and witnesses in immigrant communities. This will also make immigrant communities a target of criminal activity and potentially other communities closely located or otherwise connected to immigrant communities.

13. HB 87 will also decrease community safety by diverting police resources away from the primary mission of fighting serious and violent crimes in favor of pursuing enforcement of civil immigration laws. Georgia police officers simply cannot take on the added responsibility to enforce federal

immigration laws without taking substantial time away from priorities that are more central to a local law enforcement agency.

14. This is especially true under HB 87 because taking on the added responsibility of enforcing immigration laws will necessarily prolong stops and detentions while the officer attempts to verify the individual's immigration status. HB 87 encourages officers to investigate the immigration status of individuals they stop who cannot produce one of five enumerated identity documents. Under Section of HB 87, if an officer has probable cause that even a minor criminal violation has occurred, such as a traffic offense, the officer may investigate the person's immigration status if he or she is unable to provide one of a few identification documents listed in this provision. Although the officer can only initiate the stop upon a finding of probable cause of a criminal violation, HB 87 allows the officers to extend the stop without any suspicion of further criminal activity in violation of well settled constitutional principles.

15. Thus, HB 87 will result in the unconstitutionally prolonged detention of individuals, including U.S. citizens and individuals with legal immigration status, while officers inquire about immigration status. The duration of detentions resulting from HB 87 is likely to be significantly prolonged

because immigration status is not something that can be readily verified in the field. In most cases, it will require Georgia police officers to call the Law Enforcement Support Center of the Department of Homeland Security to verify status, a process which takes an extended period of time. The time spent investigating immigration status is time taken away from investigating and preventing violent and serious crimes.

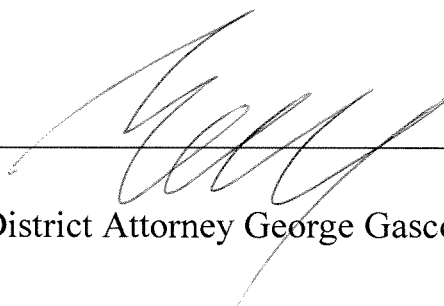
16.HB 87 also prohibits the use of consular-issued identity documents for any official purposes. This provision is likely to undermine law enforcement activities in Georgia. Consular identity documents (or “matriculas”) are routinely used by law enforcement officials to verify the identity of an individual stopped. The Mexican matricula, in particular, is widely used. In my experience, the Mexican matricula is a very secure document and is easy for law enforcement officers to verify in the field because it has a unique bar code on the back that we can easily scan to verify the cardholder’s identity and basic information. HB 87 deprives Georgia law enforcement officers of this secure and simple way to verify the identity of individuals they encounter.

17.In my opinion, HB 87 is extremely harmful for law enforcement departments in Georgia. It invites officers to engage in racial profiling and

pretextual arrest and will undermine public safety by causing communities to distrust the police and diverting policing resources from the goal of ensuring public safety. HB 87 will turn regular police encounters into prolonged investigations into immigration status and will make every day policing duties more difficult to accomplish.

I declare under penalty of perjury of the laws that the foregoing is true and correct.

Executed this 7th day of April 2011 in San Francisco, California.



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District Attorney George Gascón



# **EXHIBIT 12**

**DECLARATION OF EDUARDO GONZALEZ**

I, EDUARDO GONZALEZ, hereby declare:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

1. I began my law enforcement career with the Miami-Dade Police Department in Miami, Florida in 1965. In 1986, I was appointed Deputy Director of the Department, a position which I held until 1992.
2. In 1992, I was appointed Chief of Police for the City of Tampa Police Department, Tampa, Florida, a position I held until 1993.
3. In 1993, I was appointed by President William J. Clinton as Director of the United States Marshals Service. I served in this position until my retirement in 1999.
4. I hold an Associate Degree in Police Science, a Bachelor's degree in Criminal Justice and am a graduate of the FBI's National Executive Institute, the FBI National Academy and the Senior Management Institute for Police.
5. I have served for four years as a Commissioner with the Commission on Accreditation for Law Enforcement Agencies.

6. In March 2004, I was contracted by the Alexandria Group of MPRI to serve as the Independent Monitor for a Memorandum of Agreement between the Prince Georges County Police Department and the U. S. Department of Justice to address compliance with requirements of a Memorandum of Agreement regarding the county's police department practices.
7. The duties and responsibilities of that position included enforcement of the terms of the agreement through quarterly site visits, meeting with both parties on a monthly basis to resolve areas of concern, issuing a quarterly report detailing Prince George's County progress or lack thereof, and providing technical assistance as required. The monitoring was successfully concluded in January of 2009.
8. In November, 2009, I joined the monitoring team enforcing two Consent Judgments regarding the City of Detroit's police force—one for use of force and one related to corrections practices.
9. I have read Georgia's HB 87 and based on my extensive experience in law enforcement, specifically as a police chief and independent monitor, I have several concerns with this law.
10. First, by enlisting local police in the business of federal immigration enforcement, HB 87 will sever the relationship between the police and

immigrant communities. HB 87 directs law enforcement officers to utilize “any reasonable means available to determine the immigration status” of individuals in the course of carrying out their regular policing duties. As a result, immigrant and minority communities will be reluctant to contact the police because of fear that such contact will lead to investigations into immigration status. This will mean that fewer witnesses to or victims of crimes, such as domestic violence, will call the police because doing so could result in investigations into the immigration status of the victim, his or her family members, neighbors, or other persons close to the victim, perhaps leading to their deportation. HB 87 will threaten public safety because it will drive a wedge between immigrant communities and the police.

11. As a result of community distrust of the police, Georgia law enforcement will have a much more difficult time doing their job. Effective policing, and investigating and solving serious crimes, rely on partnership with the local community. HB 87 undermines this partnership by making every contact with Georgia law enforcement a potential referral to ICE for deportation. The provisions of HB 87 that attempt to dispel the notion that enforcement of this statute will preclude the immigrant community from assisting law enforcement in the investigation of crime are simply ineffective. HB 87

provides that “[n]o person who in good faith contacts or has contact with a state or local peace officer ... for the purpose of acting as a witness to a crime, to report criminal activity, or seek assistance as a victim to a crime shall have his or her immigration status investigated based on such contact...” This does not adequately guard against HB 87’s chilling effect on the reporting of crime because there is no penalty for officers who improperly investigate the immigration status of witnesses to or victims of crime. Moreover, I don’t believe that such language will overcome the fear of police that HB 87 will create in the immigrant community because of the law’s overriding message to immigrant communities that the police now have additional policing duties and authority – to investigate immigration status.

12. My experience has also shown that it can be extremely difficult to gain the trust of immigrant communities even without measures such as HB 87 in place because the countries from which many immigrants originate have a history of abusive police practices. It takes considerable time and effort to gain the trust of these communities and laws like HB 87 only serve to undo that hard work by alienating immigrant communities and causing them to fear the police.

13. The distrust of law enforcement that HB 87 will engender will occur

regardless of whether or not community members have legal status because immigrant families and communities are typically made up of both those with lawful status and those without. Even individuals with lawful status may fear contacting the police out of concern that such contact could result in the deportation of a family or community member.

14. HB 87 also undermines public safety because it diverts scarce law

enforcement resources away from the primary goal of investigating and solving serious crimes in favor of pursuing enforcement of civil immigration laws, a federal responsibility, which local law enforcement officers are not properly trained to engage in. Police officers in Georgia simply cannot take on the added responsibility of immigration enforcement without sacrificing substantial time that would otherwise be spent pursuing priorities more central to a local law enforcement agency. The resulting harm to public safety will not only impact immigrant communities, but all communities in Georgia.

15. HB 87 will also result in the unconstitutionally prolonged detention of

individuals, including U.S. citizens and individuals with legal immigration status, while officers inquire about their immigration status. Although HB

87 initially bases immigration status inquiries on a predicate criminal investigation there is no qualification on the kind of criminal investigation that can trigger immigration status inquiries—allowing police to inquire into immigration status in the most minor of investigations. In addition, a lawful detention must last no longer than necessary to effectuate the purpose of the stop. An officer must have suspicion of further criminal activity to continue the detention beyond the original purpose of the stop. However, HB 87’s provisions allow officers to extend the duration of a stop without any suspicion of wrongdoing, much less criminal activity. Under HB 87, if an officer has “probable cause to believe that a suspect has committed a criminal violation,” the officer may seek to verify the individual’s immigration status when the individual is unable to present one of five enumerated forms of identification. However, failing to produce one of the specified forms of identification is not evidence of crime. Nevertheless it can subject an individual to prolonged detention, in fact, Georgia law enforcement officers are instructed to use “any reasonable means” to determine the immigration status of the individual. This will inevitably lead to prolonged stops because immigration status cannot be readily determined in the field. The criminal checks routinely run in the field do not reveal

information about an individual's immigration status and contacting ICE or another appropriate federal agency will add significant time to the duration of the stop. Prolonging the stop without suspicion of criminal activity, as allowed for here, is unconstitutional.

16. I believe HB 87 will also lead to an increase in the incidents of pretextual stops of individuals of color in Georgia, as some law enforcement officers will use pretextual reasons to stop or question individuals they believe to be in the United States illegally. An officer motivated by racial or ethnic animus or by race-based stereotypes about what an illegal immigrant looks like can easily find a pretext for stopping an individual. HB 87 only requires that the officer have probable cause to believe that the individual has committed a criminal violation, no matter how minor the alleged criminal violation is. Thus failure to signal for a turn or failure to come to a complete stop would provide sufficient basis for an officer to initiate an immigration status inquiry.

17. In addition, because HB 87 leaves the decision of whether to investigate immigration status up to the discretion of individual law enforcement officers, it creates an unacceptable risk that officers will rely on an individual's physical appearance or manner of speaking in determining when

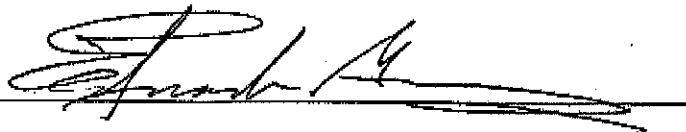


to exercise this discretion. HB 87 does not provide any guidance or training to enable Georgia law enforcement officers to enforce it without coming into conflict with well established constitutional prohibitions against the use of race, color, or national origin.

18. In my opinion HB 87 is extremely harmful for local police departments in Georgia because it will cause immigrant communities to fear interaction with the police, it will divert policing resources from the goal of ensuring public safety, and it will lead to racial and ethnic profiling thereby undermining the integrity of the profession.

19. I declare under penalty of perjury of the laws that the foregoing is true and

correct. Executed this 31st day of May 2011 in Miami Dade County,  
Florida.



Eduardo Gonzalez

# **EXHIBIT 13**

**DECLARATION OF LEWIS SMITH**

I, LEWIS SMITH, hereby declare:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

1. I am the Chief of Police for the town of Uvalda, Georgia. Uvalda is a town of approximately 600 people in southeast Georgia. It is in Montgomery County.
2. I have been the Chief of Police in Uvalda since February of this year (2011). Before that, I was the Chief of Police in Rhine, Georgia for about a year and a half and prior to that was a Major and Assistant Chief in the Willacoochee Police Department in Willacoochee, Georgia.
3. I was born in Bacon County, Georgia and raised as a farmer. Growing up my family did row crop and cattle farming. I continued to farm until about three or four years ago, when my father passed away. In 1987 I decided to go into law enforcement to supplement my income and raise my young family. I graduated from the Abraham Baldwin Police Academy in Tifton, Georgia in 1988.
4. I have been certified in law enforcement in Southeast Georgia for 23 years. From 1997 to 2004 I ran a trucking company with my kids, but have always

done at least part time law enforcement work. Over the years I have received extensive training and certifications through the Georgia Peace Officer Standards and Training Council, including Chief Executive training, training in fire arms, responding to domestic violence, Driving Under the Influence (“DUI”) and sobriety, intoxication, radar detection, working with canine drug dogs and court room demeanor, among other things. I have also testified in court several times related to cases I was involved in.

5. My responsibility as Chief of Police is to ensure the public safety of everyone living in and travelling through Uvalda, regardless of their race or where they are from. My focus as Chief of Police is to be able to patrol my city and prevent all crime. I do this by being highly visible. I want to let everybody see my police car ride by their house. In my experience, this deters crime.
6. I have read over HB 87 and based on my experience as a police officer and Chief in rural southeastern Georgia, I am worried about the impact this law will have on my community and other communities like mine and I am unsure how we will have the resources or ability to carry it out.
7. HB 87 authorizes law enforcement officers to verify immigration status of anyone they stop upon suspicion of any criminal activity if that person is not

able to produce one of the listed documents, like a Georgia driver's license or identification card. I say "criminal activity," but of course this includes even very minor conduct like an improper lane change, failing to use a turn signal, or going even two miles over the speed limit. Although the law does not literally require immigration status verification, in my opinion that is how it will be interpreted by law enforcement in southeast Georgia and I think that is exactly what the law intends, which after all is named the "Illegal Immigration Reform and Enforcement Act of 2011." This is going to be devastating to my community, and to many other areas in rural Georgia.

8. I believe this law will open the door for a lot of racial profiling, if it is implemented. There are a lot of good police officers, but there are also some bad ones out there too and if the bad ones don't like Hispanics, for whatever reason, they will have the ability to try to verify that person's immigration status. I believe that officers in many small towns will rely on physical appearance or way of talking (accent) to determine whether to stop someone and attempt to verify the person's immigration status.
9. I am also concerned HB 87 will negatively affect my communities' safety. Like many communities in southeastern Georgia, neither Uvalda nor

Montgomery County has its own jail. The detention facility we use is 40 miles away in Soperton, Georgia, at the Treutlen County Jail. Soperton is a 40-minute drive from Uvalda. That means an hour drive there and an hour drive back. The booking process at the jail can take anywhere from 15 minutes to over an hour, depending on how busy the jail is. This means that every time I take someone to the jail I'm gone at least two hours and fifteen minutes, if not longer.

10. Every time I have to transport someone to the jail, my town is left unguarded. Because Uvalda is such a small town, everyone in town knows when I've left town and the criminal element often takes advantage of this time to commit crimes. Because immigration status is not something that police can always verify from their police cruisers, status checks under HB 87 would result in me spending more time transporting people to jail to have their immigration status verified and less time patrolling my town and preventing crime. For this reason, I can't fully enforce HB 87 because it would make my town less safe. But I expect, based on my conversations with other law enforcement officers in communities close to Uvalda and throughout the state, that police in many towns will feel compelled to always

exercise their authority to ask about immigration status, making many communities less safe and stretching already thin police forces to their limit.

11. The criminal element in Uvalda does not include the population HB 87 targets. In Uvalda, even though we are a small town, we have a big prescription drug problem resulting in break-ins, burglaries and even suicides. Hispanics, and in particular Hispanic immigrants, in Uvalda are law-abiding people. In my experience they are more conscious about obeying the law because they could lose everything if they were arrested. I currently have a good relationship with the Hispanic community, but HB 87 is going to erode the communities' trust in me. In small towns like Uvalda, life is more personal. As Chief I get to know people for who they are, rather than just a statistic or a word such as "illegal." The immigrants in my community have children and they need a chance, just like everyone else does.

12. I'm also concerned that HB 87 will take up already limited jail space that we need for violent offenders and drug dealers and will fill it with otherwise law-abiding people who are just trying to better themselves and take care of their families.

13. Because there are so few jails near Uvalda, the facilities we do have are often filled to capacity and unable to accept new prisoners. The Treutlen County Jail holds 46 people, but often houses more. If I show up to the jail and they are full, they put my prisoner in a holding room until I can get someone in there to bond them out. If they are unable to be bonded out quickly and have nowhere to house them, they have to let them go. Because of this I often call the jail before I transport to find out whether there is space for a new prisoner. If there isn't space at the jail in Treutlen County, then I have to call the jails in Hazlehurst or Jeff Davis County to find out if there is space elsewhere. HB 87 is going to make this problem worse. If the jail in Treutlen County is full because of HB 87, I will have to travel even farther, and leave my town exposed for even longer, to get the person into a jail.

14. I am also very concerned about how HB 87 will usurp local police officers' decision-making authority when we stop individuals for minor infractions. Because of the limited jail space we have, and because of the limited law enforcement resources I have to keep Uvalda safe, I routinely issue citations for minor crimes when I determine that a citation will effectively deter the crime at issue and will keep Uvalda safe. A citation is often preferable to an arrest when the violation is minor because an arrest will take me out of



service for over two hours, which is time that I am off the streets of Uvalda. For example, I routinely issue citations for all traffic offenses. In 2010, I issued approximately thirty to forty citations per month. That's an average of over four hundred citations a year. On average, it takes me about ten minutes to issue a citation, if everything goes well. In my experience, I expect many officers will view HB 87 as depriving us of the ability to make these decisions to issue citations in lieu of physical arrest, which will make all of our communities less safe. Again, though the law does not literally require this, in practice it often will because officers do not want to appear to not be fully enforcing the laws passed by the legislature.

15. I think this law unfairly targets Hispanic people. The Hispanic people living in my community are law-abiding citizens. They have family and kids. This law will result in many people many people having their immigration status checked if they don't have the right documents, even if they are just trying to get to work. I don't like the idea of having to call ICE every time I take someone in and I don't believe that ICE is going to move quickly to come to Uvalda, in rural southeast Georgia, to pick up suspected immigrants. It generally takes seven to ten days for ICE to come pick someone up in South Georgia. In the meantime that person is housed at a cost of hundreds of

dollars during that period and then, once someone has an ICE hold on them, they're not going to pay their ticket. It's completely fruitless for us. It takes us away from our community, making it less safe and in the meantime we don't even get the revenue we depend on from the citation.

16.HB 87 is not going to make anyone safer or bring more jobs to Georgia. HB 87 is going to bankrupt small towns like Uvalda because in practice it will divert scarce manpower and fiscal resources to detaining and jailing law abiding people that are part of our community just because they lack the proper identification documents. I believe our borders should be secured, but I do not think that HB 87 or police officers acting as immigration officers will make Georgia any safer.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 7 day of June, 2011 in Uvalda, Georgia.

  
\_\_\_\_\_  
Chief Lewis Smith

# **EXHIBIT 14**

**DECLARACIÓN DE ERNESTO PIÑÓN**

Yo, Ernesto Piñón, declaro,

Tengo conocimiento personal de la información en esta declaración. Si me piden mi testimonio, podría decir competentemente lo que sigue y lo haría.

1. Nací en México en 1974. Me hice ciudadano estadounidense en 2009.
2. Vivo en Sunnyside, Washington. Tengo una licencia para conducir del estado de Washington. No tengo pasaporte de los Estados Unidos, y la única identificación del gobierno que siempre llevo conmigo es mi licencia para conducir del estado de Washington.
3. Mi media hermana vive en Georgia. Ella y yo nos mantenemos en contacto por teléfono una o dos veces cada mes. Hace poco su hija, mi sobrina, se graduó de la preparatoria. Estoy muy orgulloso de ella y quería ir a Georgia para celebrar con ellos. Desgraciadamente, debido a conflictos de trabajo y asuntos económicos, no pude hacer el viaje. Tengo planes de viajar a Georgia para visitar a mi media hermana y mis sobrinas antes del fin de año.
4. No soy muy alto y soy moreno de pelo oscuro. Creo que las personas que me ven saben que soy Latino. Además, mi lengua primaria es español, y aunque puedo hablar en inglés, tengo un acento.

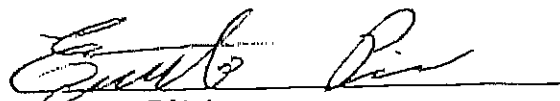
5. Creo que he sido parado por la policía por mi aspecto Latino. Una vez me pararon, y el policía me dijo que me había parado porque el parabrisas estaba rajado. Pero no había ninguna rajadura en el parabrisas. Creo que solamente buscó un pretexto para explicar porque me paró. Otra vez me siguió un coche de policía después de que salí de un bar donde había cenado después del trabajo. El policía nos vio a mí y a mis compañeros de trabajo irnos del bar y nos siguió. Me preguntó cuántas cervezas había tomado. Le dije que no había tomado ninguna cerveza. No puedo estar seguro de que estos dos encuentros fueran casos en que la policía haya hecho presunciones por mi raza, pero tengo el 80 por ciento de seguridad de que me pararon porque soy Latino.
6. No creo ser el único que la policía ha parado por tener apariencia Latina. Creo que esto pasa a muchas personas. También creo que la policía en otros lugares afuera de Washington paran a las personas porque parecen Latinos. Creo que es probable que la policía en Georgia paren a las personas solamente por parecer Latinos. De hecho, mi media hermana me ha comentado que con esta ley la policía han puesto más presión con la gente con apariencia Latina.

7. Cuando viajo, mi licencia para conducir del estado de Washington es la única identificación que llevo. Tengo miedo de que si se pone en marcha la HB 87, y viajo a Georgia para visitar a mi media hermana y mis sobrinas, la policía me va a parar y me van a detener porque mi licencia de Washington no será aceptada como prueba de que soy ciudadano estadounidense. Tengo miedo de que van a hacer presunciones por mi raza como lo han hecho en el pasado, y aunque intento no hacerlo, a veces manejo a alta velocidad. La policía me ha parado antes por ir a velocidad excesiva. Tengo miedo de que si la policía me para por ir a velocidad excesiva o por alguna otra infracción de tráfico, no me van a creer cuando les diga que soy ciudadano estadounidense porque no tengo la identificación correcta, por el color de mi piel, y porque tengo acento. Tengo miedo de que me detengan por estos motivos.
8. Si se pone en marcha la HB 87, voy a tener más miedo de viajar en Georgia. Nosotros nos tendremos que quedar en casa más tiempo cuando visite a mi media hermana, más de lo que hubiéramos tenido que hacer antes de que la HB 87 fuera una ley.

9. Estoy orgulloso de poner resistencia a esta ley. Creo que esta ley es injusta para los inmigrantes que viven o viajan en Georgia. Como ciudadano estadounidense, no creo que esto sea lo que mi país representa.

Declaro bajo pena de perjurio que el contenido de este documento es verdadero y correcto.

Firmado este día 7 de Junio de 2011 en Sunnyside, Wahsington.

  
Ernesto Piñón

**DECLARATION OF ERNESTO PIÑON**

I, Ernesto Piñon, hereby declare,

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

1. I was born in Mexico in 1974. I became a U.S. Citizen in 2009.
2. I live in Sunnyside, Washington. I have a Washington State driver's license. I do not have a U.S. Passport, and the only government identification I ever carry with me is my Washington State driver's license.
3. My half-sister lives in Georgia. She and I stay in touch by speaking on the phone once or twice a month. Recently her daughter, my niece, graduated from high school. I was very proud of her and wanted to go to Georgia to celebrate with them. Unfortunately, due to work conflicts and financial concerns, I wasn't able to make the trip. I plan to travel to Georgia to visit my half-sister and my nieces sometime before the end of the year.
4. I am not very tall and have dark skin and dark hair. I think people who see me know that I am Latino. Also, my primary language is Spanish, and although I can speak English I do have an accent.
5. I believe that I have been stopped by the police because I look Latino. One time I was pulled over, and the police officer told me he had stopped me



because my windshield was cracked. But there was no crack in my windshield. I think he was just looking for a pretext to explain why he stopped me. Another time I was followed by a police car after leaving a bar where I had stopped for dinner after work. The police officer saw me and my coworkers leave and followed us. He asked me how many beers I had drunk. I told him I had not drunk any beers. I cannot be sure that either of these cases was racial-profiling, but I am 80 percent confident that I was stopped because I am Latino.

6. I do not think I am the only person who is stopped by police because he/she looks Latino. I think this happens to a lot of people. I also think the police in other places besides Washington stop people because they look Latino. I believe that police in Georgia probably stop people just because they look Latino. In fact, my half-sister has told me that with this law, the police are putting more pressure on people who look Latino.
7. When I travel, my Washington driver's license is the only form of ID that I carry. I am afraid that if HB 87 goes into effect, and I travel to Georgia to visit my sister and my nieces, I will be stopped by police and then detained because my Washington driver's license will not be accepted as proof that I am a U.S. Citizen. I fear that I might be profiled again as I have been in the

past, and although I try not to, I do sometimes drive over the speed limit. I have been stopped by the police for speeding before. I am afraid that if the police stop me for speeding or some other traffic violation, they will not believe me when I tell them that I am a U.S. Citizen because I don't have the right identification, because of my skin color, and because of my accent. I fear they will detain me because of this.

8. If HB 87 goes into effect, I will be more afraid to travel in Georgia. When I visit my half-sister we will stay inside at her house more than we would have before HB 87 was a law.
9. I am proud to stand up against this law. I believe this law is unfair to immigrants who live or travel in Georgia. As a U.S. Citizen, I do not believe this is what my country stands for.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this \_\_\_\_\_ day of June, 2011 in Sunnyside, Washington.

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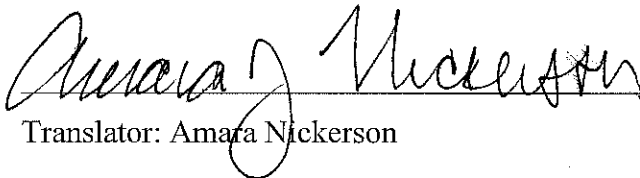
Ernesto Piñon

**Translator's Affidavit**

I certify that I am fluent in Spanish and English. I certify that on June 4, 2011, I translated the following document from Spanish into English:

**Declaración de Ernesto Piñon,**

and that the English is a true and accurate translation of the Spanish.

  
Translator: Amara Nickerson

6/7/11  
Date

# **EXHIBIT 15**

**DECLARATION OF JAYPAUL SINGH**

I, Jaypaul Singh, hereby declare,

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

1. I was born in the United States in 1987. I am a resident of Mercer Island, Washington. I am currently finishing my first year of law school at the University of Washington.
2. I will be working as a legal intern in Atlanta, Georgia during the summer of 2011. While in Atlanta, I plan to bring with me my Washington State Driver's License, but I do not plan to carry any additional identification. I have a U.S. passport, but I do not like to carry it with me unless I am traveling internationally. I am afraid I could lose it, and I am not accustomed to needing to carry papers to prove my citizenship.
3. I am of South Asian descent, and I have brown skin.
4. I am afraid that if HB 87 goes into effect, it will impinge on my freedom. I worry that if I commit a minor infraction like littering or jaywalking, I could be subject to extended questioning and even detention because my Washington State Driver's License will not be accepted as proof that I am a U.S. Citizen. I believe this to be true because Washington State does not

verify immigration status before issuing a driver's license, and therefore it does not satisfy HB 87's document list.

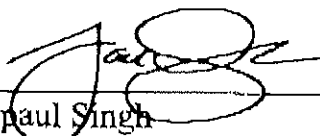
5. I will not have a car in Atlanta, but I will be asked to drive vehicles belonging to the organization I am working for as part of my job responsibilities. Additionally, my cousin will be visiting from Connecticut, and I plan to rent a car to use during the time that he is in Atlanta.
6. If HB 87 takes effect, I will limit the amount of driving I do. I will be new to Georgia and the Atlanta area, and I am afraid that as I navigate a new place, I could easily make a driving mistake that would result in an interaction with local law enforcement. Knowing that this interaction could easily lead to detention makes the decision about whether or not to drive a much weightier one. I will be forced to choose to either drive in a state of constant worry or request a change in the parameters of my work responsibilities and reconsider my plans to travel throughout the state. I do not think it is fair for me to have to make this choice.
7. I have committed minor infractions before. I have been stopped for speeding twice and on one of those occasions I was issued a ticket. I do not make a habit of speeding or breaking the law, but like most people, there are occasions when I commit these minor offenses. I do not think I should risk

make a habit of speeding or breaking the law, but like most people, there are occasions when I commit these minor offenses. I do not think I should risk detention every time I go five miles over the speed limit or accidentally drop a candy wrapper on the sidewalk.

8. I believe that detaining someone like me because of how I look and the fact that I don't carry the proof of my U.S. Citizenship required by this law is un-American.
9. If I enjoy my time in Atlanta this summer, I would like to come back to visit. I have even thought about eventually moving to Georgia if I find work there after law school. I hope that HB 87 does not go into effect and that I can spend time in Georgia without fearing that I could be detained or questioned during even the most benign interaction with law enforcement.

I declare under penalty of perjury that the forgoing is true and correct.

EXECUTED this 7th day of June, 2011 in Seattle, Washington.

  
\_\_\_\_\_  
Jaypaul Singh

# **EXHIBIT 16**



**DECLARATION OF** [REDACTED]

I, [REDACTED], hereby declare:

I make this declaration based on my own personal knowledge. If called to testify, I could and would competently state what follows.

1) I was born in 1976 in Mexico, and I am Latino. Spanish is my primary language, and I speak limited English only. I reside in Dalton, Georgia. I moved to nearby Calhoun, Georgia, eleven years ago, and came to Dalton four years ago. I have lived here for a very long time. I enjoy the community, and get together regularly with friends to do things like play basketball or to just hang out, when we aren't busy working. I think of Dalton and Georgia as my home, and I feel comfortable in this community.

2) I help support my father, sisters, and one brother who live in Mexico. I came to the United States because I needed to find work to help support my family.

3) I am very fearful of the effect that HB87 will have on me and on my community in Dalton, Georgia. I do not possess any of the documents that HB87 requires to prove that a person is permitted to be in the United States, like a current driver's license or state identification card, and based on my past experience, I expect that police will be looking for ways to stop me and question me about my

immigration status. For example, when I was living in Calhoun, I was stopped three times in three months by the police for driving without a license. I was fined each time, and I then had to stop driving because I could not afford it. I do not believe the police could have known I did not have a license until after the stop had occurred. One of three times I was stopped I am sure it was because of my race and my Latino appearance. I saw a policeman looking at me when I left a store, and the policeman followed me home. When the policeman made me pull the car over, I asked him why he had stopped me. He hesitated and then looked around the car for a problem. He told me it was because the windows were tinted and the windshield was cracked. I believe he was looking for some pretext after the fact to justify pulling me over.

4) After that incident, I have driven as little as possible. I sold my car after I moved to Dalton and now I ride my bicycle, walk, or get rides from friends instead. I am afraid that HB87, if implemented, will cause police to stop me from riding my bicycle or from walking from place to place. Under the new law, if the police stop me, they will have the right to ask me for immigration documents, even if I am not driving a car. I have already been profiled by the police, and I am very fearful that this will happen again if HB87 goes into effect.

5) HB87 is going to make my life very difficult. It will be harder to get my friends to give me rides to go to places like the grocery store, because all of us are going to be more afraid of the police. If HB87 is implemented, I plan to go out of my house as little as possible. I will no longer feel safe walking to the park to play basketball with my friends.

6) I have been robbed several times in the past few years, and I think there are others in my community who criminals have also targeted because they think we Latinos are less likely to use banks and more likely to hide cash in our homes. I have gone to the police to report these robberies. But if I am robbed again, I am not sure I will report the robbery to the police for fear of being arrested myself for not having immigration documents. I, and I think my friends as well, will avoid having contact with police if at all possible, no matter the circumstance.

7) I have a matricula consular from the Mexican government, and I have been able to use it as an acceptable identification document in many places in the past. I used it to open accounts at City Hall in Calhoun, Georgia, for water and electricity service to my home. I also used it when I went to the police to report the robberies. I also regularly use my matricula in banks and stores.

8) I am afraid of the implementation of HB87 because I fear being arrested by police and questioned about my immigration status. I fear that if the

police discover I do not have the authorization to be in the United States, that they will contact ICE and that they will deport me. If HB87 goes into effect, my life will be changed dramatically. The threat of HB87 has made me consider leaving the state, but this is my home and I want to stay here. I know this area well now, and I have friends here. It would be very difficult for me to go somewhere else, where I do not know anyone and do not know how to get around to places I need to go. It is difficult to completely start over in a new place, and I hope I do not have to do it.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 6/1/2011

\_\_\_\_\_

# **EXHIBIT 17**

**DECLARATION OF** [REDACTED]

I, [REDACTED], hereby declare,

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

1. I am nineteen years old. I currently live in a small town about twenty miles outside of Atlanta, Georgia with my parents and three siblings.
2. I came to the United States from Mexico when I was about nine years old. My family came here out of necessity. My parents were seeking work and better educational opportunities for their children. I do not have valid immigration status in the United States.
3. I have lived in Georgia for about ten years. Many of my aunts, uncles, and cousins also live in Georgia.
4. I would like to be able to continue living in Georgia because it is my home; I grew up here, went to school here, my friends are here, and much of my family lives here. It is the only place that I am connected to in this way.
5. Also, in the United States there are better opportunities for people who work hard and apply themselves in school. There is also less violence in the United States than there is in Mexico.

6. I am a graduate of [REDACTED] High School. While in school, I was very dedicated to my studies and heavily involved in the school community. I graduated in 2009 with a 3.5 GPA. I was a member of the Reserve Officers' Training Corp ("ROTC"), I performed with the Marching Rifles, was the Chief Photographer for the yearbook, the vice-president of my senior class, the vice-president of the Principal's Roundtable, and I was also a member of the German Honors Association.
7. I applied to and was accepted at Kennesaw State University. I was not able to matriculate because I could not afford the tuition and I do not qualify for loans or grants because of my immigration status. My goal is to eventually attend college and become a political journalist or high school Advanced Placement English teacher.
8. If HB 87 goes into effect, I will be afraid to leave my home. I am already afraid to travel in counties that have 287(g) agreements because I worry that the police will stop me based on my Latino appearance. I will not want to go out and participate in community activities as I normally would if HB 87 is implemented.
9. I spend a lot of time worrying about myself and my family and our future. I worry about where my family can go to be safe. If my family has to move

out of Georgia, we will have to start our lives all over from scratch. I worry about what will happen to my siblings who are U. S. Citizens if my parents or I get caught up in immigration enforcement.

10. I am also concerned that HB 87 will increase racial profiling in Georgia against me and people who look like me. My friends tell me that in places like Cobb County where there is a 287(g) agreement, the police go out looking for people who are Latino. I think this will happen throughout Georgia if HB 87 goes into effect. I have been racially profiled in the past. In 2010 I was a passenger in a car with two white friends. We were stopped at a police checkpoint by Cobb County Police. The police officer asked to see the driver's ID. The police officer saw me sitting in the back seat. He asked for my ID. I asked if ID was required for someone who is a passenger in a car. I began filming the interaction. That made the police officer leave. He never asked the white, female passenger in the front seat for her ID. I believe I was asked for my ID because I have dark skin and dark hair and I am Latino. I don't possess any of the documents HB 87 requires as proof of identification.

11. If HB 87 goes into effect, I will be very afraid to interact with the police, even if I am the victim of or witness to a crime. I already fear contacting the



police because I think they might ask for my ID or my immigration status, and since I have seen first-hand that some police officers do racially profile, I would likely not call the police because I would be afraid that I would be arrested for my immigration status. HB 87 amplifies my fear of the police inquiring about my immigration status because that is what everyone says this law permits.

12. My only photo ID is a matricula issued in Mexico. I have used it in the past to visit the State Capitol building. I would like to continue to be civically engaged by attending hearings at the Capitol, but I am afraid that HB 87 will cause public places to no longer accept my matricula as a valid form of ID. My mother and my sister have used their matriculas to obtain Women Infant and Children (“WIC”) services for their children who were born here in the United States. I am afraid that if HB 87 passes, they will no longer be able to access these services and this will negatively affect the health and well-being of my family.

13. I know that there are many other people in my same circumstances who did not chose to be undocumented in this country but who feel punished for it every day. I believe that this law will affect all of us negatively and make it even harder for us to achieve our hopes and dreams.

I declare under penalty of perjury that the forgoing is true and correct.

EXECUTED this 1<sup>st</sup> day of June, 2011 in Atlanta, Georgia.

A large black rectangular redaction covers the signature area. A horizontal line extends from the right side of the redaction, indicating the position of the signature.

# **EXHIBIT 18**

**DECLARATION OF SILVIA AMERICA GRUNER**

I, Silvia America Gruner, hereby declare:

I make this declaration based on my personal knowledge and if called to testify I could and would do so competently as follows.

1. I am the president and founder of the Coalition of Latino Leaders (CLILA).

I am a Mexican national with permanent residency in the United States. I currently reside in Whitfield County, Georgia.

2. CLILA is a not-for-profit, volunteer-based membership organization in Dalton, Georgia, that started working in May 2006. It was incorporated in February 2007, and was awarded 501(c)(3) status in December 2008.

3. CLILA's mission is to develop competent, caring Latino grassroots leadership with a variety of skills necessary to address the critical issues that challenge the Northwest Georgia Latino community. We strive to advocate alongside our fellow immigrants for human rights and civil rights, and to encourage members of the Latino community to engage in civic activities and to participate in the political process, by providing voter registration, voter education, and citizenship education. We have about 150 regular members and about 1,000 participants in different activities.

4. CLILA provides a variety of services to the community: Advocacy and community organizing for immigrants' rights; citizenship classes; English classes; Homework Club for children whose parents don't speak English; computer classes for people who don't have access to other computer resources; assistance in completing applications for legal residency and citizenship; community meetings on different issues affecting the Latino community such as: workers' rights, legislative updates, how the U.S. legal system works, and educational rights; voter registration and education, and forums to bridge gaps between immigrant and native-born communities. Also, once we identify that children, or on few occasions parents, in our community are eligible for food stamps, we hold community meetings instructing parents on how to apply for food stamps. At the meetings we instruct parents where to go to apply for food stamps and provide assistance to fill out the forms if such assistance is needed. All of our services are provided regardless of the individual's immigration status.
5. Our programs and services are provided for community members living in Dalton, Whitfield, and Murray counties in the state of Georgia. Our members are Latino immigrants, mainly low-income families. We accept members without inquiring about their immigration status in the United

States. The average number of people we serve a year is about 1,000 individuals, with an estimated 60% undocumented immigrants.

6. The goals of our organization include advocacy and community organizing. We develop and implement an advocacy agenda to impact local, state, and federal policy and services. We work on building alliances and coalitions to build power and affect positive social change for the Latino community. We encourage civic participation to empower the Latino community to fully participate in U.S. democracy, better integrate into the U.S. system, and make use of their voting rights/responsibilities. One important goal is to increase the percentage of Latinos voting in 2012 elections, especially in this time of increasingly negative anti-Latino initiatives and politics. We further empower Latino community members to claim their rightful place in the civic, cultural, and economic life of Northwest Georgia and we offer opportunities for Latinos to positively showcase our culture to the general community. We also encourage Latinos to build bridges with other groups and reduce ethnic tensions.
7. CLILA also focuses on leadership development by preparing Latino grassroots leaders to address the critical issues challenging the Northwest Georgia Latino community. We encourage parent involvement by asking

parents to advocate for their children, and be more involved in their children's education.

8. CLILA has already been harmed by the passage of HB 87 in many ways, and these problems will only get worse if the bill goes into effect. As a result of the adoption of HB 87, attendance in our different programs and services decreased significantly because our members fear that their association with our organization will cause them to be identified as undocumented by the police. In the short time since the law passed, it is already affecting our goals and regular activities because people are afraid of coming to our office thinking they could be stopped, interrogated, and detained by local law enforcement on their way here due to little more than their Latino appearance. Our attendances for the English classes and homework club have also decreased significantly since HB 87 passed. People who used to attend these classes have expressed that they feel there is no use to continue trying to attend because they fear they could be stopped and detained by local police at any point and subsequently deported.
9. CLILA's resources, both in funding and in staff and volunteer time, have been diverted from our priority projects because of the passage of HB 87. For example, the numbers of calls we receive daily have increased by 400%

due to the adoption of HB 87. People are calling to ask about the new law or with questions about how it will be implemented. We had to increase the number of hours invested in returning calls. As a result of this demand for information on HB 87, we had to put on hold our citizenship classes because we could not adequately staff them. People in the process of gaining citizenship are being negatively affected because we do not have anyone available to provide information or to practice the citizenship questions with them, nor to help fill out their applications.

10. CLILA itself could be forced to close its doors because of HB 87. Seventy percent of our funds come from the grassroots community we serve, and as we have seen our participation numbers decline our funding is very likely to decline as well. I am very alarmed that we may not be able to continue operating in our current form. This risk would be even higher if the law is allowed to take effect, because our community will become even more alarmed and scared if that happened.

11. Because 60% of our members and the people we serve are estimated to be undocumented, implementation of HB 87 will make it impossible for them to get around, and even its mere passage has already had profound consequences. People who used to offer Latinos rides are now refusing to



provide assistance for fear of being charged with a crime under HB 87. Many of our members already cannot drive because they lack a Georgia driver's license. Also many of our members are working or looking for a job without proper documents, and they are afraid their employers will fire them soon because of HB 87. At least three employers that do not want to be identified have told us that they will not be able to keep open their businesses because of fear of being charged with penalties for hiring undocumented immigrants under HB 87 and fear of losing business once immigrants begin to flee from Georgia. They are waiting to see if lawsuits challenging HB 87 succeed; otherwise they plan to terminate their employees thinking they will be in constant risk of being charged with crimes.

12. CLILA provides transportation to certain events for many members, including members that we know do not have lawful immigration status. Our drivers occasionally exceed the speed limit in order to make it to our designated locations in time. We also transport undocumented children and adults from roadblock sites to our office or their houses when their relative has been arrested and the children do not have anywhere else to go or anyone to turn to. Because we provide these services constantly and are

likely to continue it in the future, we could be criminally charged of transporting individuals under HB 87. If implemented, HB 87 will interfere with transporting members of the organization to marches and rallies across the state, as well as to different local community resources and very frequently for English classes or community meetings. It will thus greatly impact our goals. HB 87 makes it impossible for CLILA to provide services to our community members without discriminating against them on the basis of their immigration status or risking criminal prosecution under the new law.

13. For example, CLILA intends to help with the upcoming Dreamer Conference for undocumented immigrant students. We intend to help students come to Georgia and we intend to provide transportation for them while here. HB 87 will significantly affect our plans because it will make CLILA criminally liable for transporting, assisting and enticing undocumented individuals into the state of Georgia.

14. CLILA sends its announcements and press releases to all local Spanish speaking media, which circulate in Northwest Georgia and Southeast TN, with the purpose of inviting people, including undocumented individuals, to attend our activities and community meetings and to stay informed about the

rights and issues affecting the immigrant community. CLILA also promotes its activities by inviting people to listen to two Spanish speaking radio stations which also air in Tennessee and Kentucky. CLILA sends its announcements and press releases to a newspaper in Chattanooga, TN because is the largest metropolis that is close to us, and it has a large number of immigrants in need of our services. As a result of these announcements, we receive visits from individuals from those states and we provide them services such as community meetings, immigration workshops, citizenship classes and others. HB 87 poses a threat to all these programs by labeling these actions as enticing undocumented immigrants into Georgia. Because we are likely to continue providing these services, HB 87 makes CLILA liable to criminal prosecution under the law. The alternative of ceasing to provide these services will cause a loss of membership and stand against the goals of our organization.

15. The additional document requirements set forth in HB 87 also bring problems to our organization. It increases the fear of racially profiling within our community and its implementation greatly affects our organization and our members. Many of our members do not possess any documents within list and therefore are afraid of leaving their house if HB 87 is enforced. As a

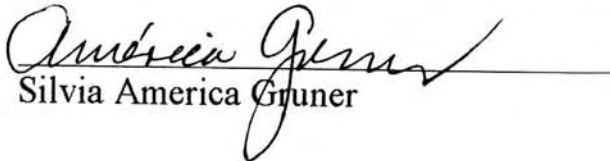
result our attendance will decrease and members who usually help us set up for events are expected to stop volunteering for fear of being asked for their documentation. For example, people who come to apply for residency at our office do not have a status or any documentation. Attendance of our workshops is thus expected to decline greatly.

16. Fear of local law enforcement in our community already exists because of the 287(g) programs operating in some parts of the state. Now with HB 87, members think the police presence in the streets will increase and detentions of Latinos will also increase. I expect attendance at CLILA rallies to further decline due to fear of police intervention and arrests due to possible offenses being committed by certain members in the crowd. Many members have expressed concern about participating in our events because they might be at risk of being charged with a crime or have their immigration status questioned simply due to their presence, lack of documents required under HB 87, and/or Latino appearance.

17. Members have also expressed concerns that HB 87 will increase racial profiling by law enforcement because officers will feel empowered to stop and interrogate many individuals regarding citizenship status regardless of whether they have committed a traffic violation (as we have seen in

communities that have an active 287(g) program). There is also a fear of roadblocks being implemented to check immigration status. We expect to see these types of injustices increase especially in the city of Dalton where more than 50 percent of the population is Latino. I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 1<sup>st</sup> day of July, 2011 in Dalton GA.

  
Silvia America Gruner

# **EXHIBIT 19**

**DECLARATION OF ANTON FLORES**

I, Anton Flores, hereby declare:

I make this declaration based on my personal knowledge and if called to testify I could and would do so competently as follows.

1. I am the Executive Director of Alterna and have served in this capacity since 2006 when I co-founded Alterna.
2. Prior to this, I was employed at LaGrange College, from 1997 to 1999, as an adjunct instructor of Social Work, and from 1999 to 2006, as an assistant professor of Social Work and the chair of the Department of Human Services.
3. Alterna is a faith-based, non-profit organization located in LaGrange, Georgia, and provides a variety of social services, primarily to the Latino immigrant community. Guided by biblical teachings to love our neighbors and care for the marginalized and the vulnerable among us, Alterna defines its work in three broad categories: providing accompaniment, advocacy, and hospitality to and on behalf of those who are in need.
4. Our services and programs include: crisis intervention case management for families and individuals experiencing legal, medical, employment, or family-related crises; accompanying our clients to medical, government, or

school appointments as necessary; accompanying our clients to appointments to apply for public benefits such as food stamps (SNAP), income verification and Medicaid; English language classes and community education on various issues; a housing facility near the Stewart Detention Center in Lumpkin, Georgia, to provide accommodation for families and friends visiting detainees; transitional housing for families and individuals experiencing life emergencies and at risk of homelessness; advocacy for immigrants' rights; monitoring the detention of immigrants; and educational trips to Guatemala with a focus on social justice. We also organize a variety of events such as humanitarian visitations to immigration detention centers by local churches, vigils at detention centers, community forums, and an annual holy week pilgrimage for immigrants, which draws about 900 participants from across the state.

5. Besides myself, there is currently one volunteer staff member and several other occasional volunteers working at Alterna. We do not check the immigration status of our clients, and therefore do not have an exact figure, but many members of the community we serve and many of our clients are undocumented immigrants.



6. As a faith-based organization, we are very concerned that the implementation of HB 87 will directly oppose and infringe on our right to express our religious beliefs to welcome and care for everyone in our community regardless of their status. For example, we are specifically called to care for those who are hungry, imprisoned, or strangers among us (Mathew 25). However, under HB 87, instead of being able to freely practice our religious calling, we will be forced to wrestle with the new law that contradicts the mandates of our faith tradition as well as having to fear religious persecution and social pressures because of our programs and activities.
7. Our work will be significantly and negatively impacted by HB 87 in several ways. Staff at Alterna, including myself, regularly accompany and drive our clients (at least five times a week), most of whom are likely to be undocumented immigrants (due to our demographics), to court, hospitals, or school appointments. While driving clients to these appointments, I, and my staff, have been stopped by the police for minor traffic violations or warnings, and this is always a possibility in the future. Under HB 87, this fundamental service we provide to our clients may become a criminal offense. Moreover, we provide transitional housing to families and

individuals experiencing temporary hardships without inquiring about their legal status, and we encourage families of those in immigration detention at the Stewart Detention Center in Lumpkin, Georgia, to stay in our nearby housing facility. Families can come from anywhere in the United States, including outside of Georgia, to stay with us as they visit their loved ones. We do not check the immigration status of families seeking to stay at our housing facility, nor will we in the future. Under the new law, we will either be prevented from continuing to offer these important services or face potential criminal liability.

8. Our clients and the members of the community we serve will also be detrimentally impacted by the new law. Many members of our Latino immigrant community, including undocumented and documented immigrants as well as U.S. citizens, have expressed fear and apprehension about the enforcement of HB 87. Many of them are limiting their participation in activities that require driving in the state, even if they may be U.S. citizens or otherwise possess the required documentation, because of the fear that they will be racially profiled or harassed by law enforcement under the new law. We have witnessed an immediate and drastic decrease in attendance at our English language classes since HB 87 was signed into law,

and Alterna has had to cancel classes because attendance has dropped off. Individuals who could greatly benefit from these classes, which offer language instruction and other resources for successful integration into the U.S. society, are being prevented from receiving these helpful opportunities out of fear that they will be apprehended, or detained and investigated by law enforcement because they cannot produce the required documents even if they maintain legal status in the United States. I also know some families and individuals who have chosen or are considering relocation to a different part of the United States or their home country because of HB 87. This kind of trend will certainly produce an economic impact for the whole neighborhood as businesses close and the workforce grows smaller.

9. This is an understandable response from the community in light of the extensive history of discriminatory treatment of individuals who look or sound Latino in the neighborhood. For example, in 2009, 194 roadblocks were set up by the police in LaGrange, and a disproportionate number of Latino drivers were stopped, investigated, or arrested. Informal conversations with Caucasian members of our community have revealed that they are regularly waived through the roadblocks without being stopped. However, I have not met a single Latino individual who has been similarly

waived through a roadblock inspection. Based on a three month FOIA request to the La Grange Police department, immigrants in LaGrange paid nearly \$35,000 in fines for driving without a license in just that quarter alone, a disproportionate contribution from a group making up only about 5-10% of LaGrange's total population. In light of this history of racial profiling, and the fear that they will be stopped, detained, and harassed to an even greater degree if HB 87 is allowed to take effect, the Latino members of our community are likely to limit their attendance at events organized by Alterna significantly.

10. I have witnessed another dramatic reflection of the fear and apprehension felt by the community about the looming implementation of HB 87 during my accompaniment of a client to a local court a few days ago. Once a month the court holds what is called Interpreters Arraignments for non-English speaking members of the community. During that single day, approximately 50% of defendants, many of whom I gathered to be Latino immigrants because of their surnames and because of their need for an interpreter, failed to appear in court, and bench warrants were issued for them. I have never seen such a high rate of absenteeism in the many years that I have accompanied individuals to this court. It is deeply troubling to

see that the new law is fostering a deep sense of distrust and fear of the police as well as the court system and leading people to avoid contact with them as much as possible. This will inevitably result in a less safe community for all because people will be afraid to report crimes or otherwise work with the law enforcement institutions.

11. In fact, I know a Latino individual who had been a victim of a violent crime on two different occasions and courageously chose to report the incidents to the police. However, even though the individual was eligible to apply for a U-Visa as a crime victim, the police refused to provide him the victim certification, which is a necessary document for the U-Visa application. In the Atlanta Journal Constitution, the local police chief had expressed his view that he would refuse such requests because immigrants could manipulate and abuse the process. These kinds of experiences send a clear message to the members of our community that they cannot trust the police. Even though this event happened prior to the adoption of HB 87, such events are only likely to become more common with its implementation.

12. It is difficult to see how this kind of atmosphere of mistrust will foster cooperation with the police and ultimately, a safer neighborhood for all, or why public safety should not be a higher priority of the local law

enforcement agencies. If people cannot trust the police, criminal elements are likely to increase and jeopardize the safety for all of us in the neighborhood.

13. I am also deeply concerned about the future of Alterna. I have no doubt that we will continue to serve an important need in our community, and that we will find a way to fulfill our mission. However, HB 87 has already had a profound impact on our ability to provide the services as I described above. This is true both because many of our clients are increasingly fearful to attend our programming and events and are choosing to leave the state. And, when they do attend, we have to deal with the community's fears of HB 87 before we can get to our actual objective—like ESL instruction or accompanying our clients to attend appointments. If HB 87 goes into effect, Alterna will continue to be harmed by the law, though we will always continue to struggle to help our clients.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 1st day of June, 2011 in LaGrange, GA.



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Anton Flores

# **EXHIBIT 20**

**DECLARATION OF ADELINA C. NICHOLLS**

I, Adelina C. Nicholls, hereby declare:

I make this declaration based on my personal knowledge and if called to testify I could and would do so competently as follows.

1. I am the executive director of the Georgia Latino Alliance for Human Rights (“GLAHR”). I was born in Mexico, but I gained my U.S. citizenship in 2008. I have been working with GLAHR since its founding in 1999.
2. The organization was initially called the Coordinating Council of Latino Community Leaders. In 2007, some revisions were made and the name of the organization was changed to GLAHR. The organization is a statewide, grassroots membership organization that emphasizes community outreach in order to ease the transition of Latino immigrants into a new culture. Everything is run by me and another full-time staff member.
3. GLAHR achieves its goal of easing transition into a new culture by educating the community about city ordinances, which they would otherwise not be aware of due to cultural differences (i.e. noise ordinances, policies on taking out trash, etc). It also serves to inform the community about their rights. GLAHR provides leadership training, community forums,



community organizing, forums about schools and the rights of children, and monthly meetings on issues the community faces with immigration.

4. The majority of GLAHR's members are immigrants. Individuals are accepted into GLAHR programs and functions regardless of their immigration status in the United States. Some of the members were born in the United States and some were born abroad. Many of GLAHR's members lack immigration status in the United States.
5. GLAHR's central goals are to inform our members about the laws of the state of Georgia and of city ordinances by which they must abide (such as loud music or the allowable number of cars in driveways, when to take the trash out, etc.).
6. Another important function of GLAHR is to act as community organizers on behalf of immigrants in Georgia. GLAHR hosts 7 hotlines, which receive daily complaints about mistreatment of immigrants throughout the state of Georgia. This is an important outreach aspect of GLAHR. Attendants document individual complaints from members of the community about topics such as detention of immigrants, arrests, or abuse by police officers. Other reports are about domestic violence, housing, and labor complaints. The attendants take down information and GLAHR functions as a mediator

in order to help immigrants who have been persecuted or denied their rights.

We also issue open record requests on behalf of detainees in order to ensure that their rights have not been violated and request statistics from sheriffs' offices to determine the number of Latinos unfairly apprehended due to certain policies.

7. With the implementation of 287(g) and Secure Communities programs in Georgia, however, we have had to divert some of our attention and resources towards Know Your Rights Campaigns. However, even with the roll-out of these programs and laws in Georgia, GLAHR had been able to continue to focus some of its resources on providing cultural transition guidance and information on city ordinances.
8. The implementation of HB 87 would completely end our ability to conduct education around local ordinances, which is a core mission of our organization. Already, since the passage of HB 87, we have had to focus *all* our efforts on determining the effect of HB 87 in different areas, and educating our members on the law. It leaves virtually no time for any other programs. This is a significant shift in GLAHR's resources.
9. HB 87 is also drastically impacting our ability to have members attend our events. In the past 3 weeks following the passage of HB 87, we have had

about 20 community forums and all our members have expressed concerns about attending the meetings and being targeted by the police. Many have closed their businesses and have decided to leave the state. They are afraid of being targeted simply for attending meetings to learn about HB 87. Fear from the impact of HB 87 adversely affects our short-term goals of informing the community about immigrants' rights and our long-term goals of educating immigrants about ordinances and cultural differences. Sadly, we have already seen a drop in our membership since the passage of HB 87.

10. In the short period since the passage of HB 87, our members have already expressed concern about the impact of the bill. For example, our Latino members have expressed concerns about how the perceptions of Latinos by the community at large have changed. They used to be welcomed by the community but now they perceive more support for segregation.

11. For example, right after the passage of HB 87, we received an intake from a Latino waiter at a restaurant who reported having received a receipt for a meal with this inscription: "I am glad you are leaving this country soon".

12. Several GLAHR members, including some members who lack any of the immigration documents listed under HB 87, believe that they have been stopped or arrested in the past based on their race/ethnic appearance or

language ability. Now, they believe they will be subjected to prolonged detention and arrest by local law enforcement if HB 87 takes effect. They are also fearful of any interaction with law enforcement departments because they fear they will be subjected to prolonged detention after a routine police encounter while police attempt to verify their immigration status.

13. In addition, since the passage of HB 87, we have received reports that businesses that have hired undocumented individuals suddenly decided not to compensate their employees. When the employees complain, the businesses threaten to call immigration.

14. Other complaints, especially from Gwinnett and Cobb Counties, include numerous reports of immigrants being pulled over by the police without having committed a traffic offense and then being detained for lack of a driver's license. One person told us that since the passage of HB 87, he has been stopped three times, even though he is a citizen, because of his Latino appearance. In another report, a police officer in Fort Valley took away a person's Mexican passport claiming that it was a fake document. The officer refused to return that document. To this date this individual's passport has not been returned. In general, the feeling is that law

enforcement officers are free to target immigrants in Georgia following the passage of HB 87.

15. Also, some of our members often need to secure services for a child and to do so, sometimes need to prove their own identity as a parent to the child. They fear that HB 87 will make it impossible for their children to attain services if they lack the specific documents required under HB 87.

16. Many GLAHR's members use consular-issued identity documents or "matriculas" as their primary form of photo ID for various transactions. These members present their matriculas to cash checks, to show proof of relationship to enroll their children in Georgia public schools, or to gain admission to public buildings. If HB 87 is implemented, these members will be harmed because of the provision prohibiting the acceptance of matriculas for official purposes. This will greatly restrict the ability of GLAHR members to conduct basic daily tasks.

17. We have also seen an increase in anti-immigrant sentiment targeted at GLAHR as an organization since the passage of HB 87. For example, we have received calls demanding that we stop helping the immigrant community or receiving intake from undocumented individuals.

18. Other core functions of our organization are also directly affected by HB 87.

We currently hold workshops or forums for which we provide transportation without inquiring into the immigration status of the participants. For example, we went to Virginia a couple of weeks ago for training on how grassroots communities should organize and work together. We rented a van and invited members of the community without inquiring about their immigration status. While providing these functions, our drivers do occasionally drive over the speed limit. Under HB 87, the individual drivers and GLAHR can be criminally liable for transporting undocumented immigrants. We are likely to provide these services again in the future and thus would face serious problems under HB 87.

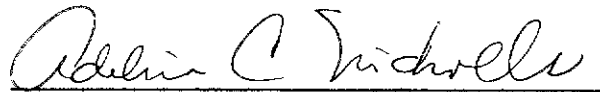
19. By receiving complaints and serving as mediators for the rights of immigrants, GLAHR often assists individuals to remain in the state. After receiving a complaint or requesting documents, we write demand letters and contact employers and detention centers. We work to solve the problems that our members are facing, regardless of their immigration status. In case they need a lawyer, we tell them where to go or where to look. Under HB 87, these vital functions of GLAHR –to serve our members–would be

labeled harboring and assisting individuals to remain in the state of Georgia and we would be criminally liable.

20. Also, in the past we have helped with the Dreamers' Conference by providing a venue where they could meet. Because these individuals do not have the proper documentation under HB 87 and because we are likely to help them in the future, GLAHR could be held criminally liable for providing a meeting space for these students.
21. I am very afraid for myself as well. I fear that I will be detained at any moment based on my Latina appearance even though I possess a valid Georgia's driver's license. I do not carry my passport around and I refuse to do so for my safety. In America, one should not have to carry their papers in order to be treated with respect by law enforcement officers. But HB 87 allows any officer to treat me as a second-class person even though I am a U.S. citizen. They may claim, as they have done with other immigrants, that my documents are falsified. I have concerns about my safety in my own house because of the work I do and because of the growing anti-immigrant sentiment in Georgia following the passage of HB 87. I live alone and these bills have increased the hatred towards immigrants, making us the scapegoat for the economic problems which we now face.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 7 day of June, 2011 in Atlanta, GA.

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Adelina C. Nicholls



# **EXHIBIT 21**

**Declaration of Anita Beaty**

I, Anita Beaty, hereby declare:

I make this declaration based on my personal knowledge, and if called to testify I could and would do so completely as follows:

1. I am the Executive Director of the Metro Atlanta Task Force for the Homeless, which is located in Atlanta, Georgia. I have been in this position for 26 years.
2. The Task Force for the Homeless (TFH) has been a presence in Atlanta since 1981, when it was started as an ad hoc group that sought to accommodate the needs of the homeless and strengthen other organizations which provided services to homeless men, women, and children in the Atlanta area. Initially serving only as a hotline that connected people with shelters or other services, TFH now has grown to serve as a homeless shelter that provides evening meals, an addiction treatment facility, hotline and support services, a day service center, permanent housing placement assistance, computer classes, and occasional transportation for residents. TFH also has an art studio and gallery, a bike shop (where bicycles are fixed and given to residents who need bicycle transportation), a computer lab, and a photo shop. The lab, gallery, photo shop, bike shop, and other

services are staffed completely by volunteers (we have no paid staff), and 90% of the volunteers are residents at the shelter. Roughly 400 people stay at the shelter each night, and 120 people use the day service center each day. Roughly 35 volunteers at TFH are homeless people who are also residents at the shelter.

3. It is estimated that TFH serves around 1,000 men, women, and children a day in various ways, and no one who comes for assistance is turned away for any reason. It is impossible to estimate the percentage of undocumented immigrants who seek assistance from TFH, including shelter, meals, and treatment services. We do not ask, and undocumented immigrants are very hesitant to offer any information whatsoever on their immigration status for obvious reasons.
4. TFH serves the metro Atlanta area, but hotline calls come in from all over Georgia, and TFH also helped to organize a statewide network and shelters in Macon and Cobb County. Those shelters, although not directly linked to TFH, are still operating today.
5. The mission of TFH is to advocate for and to represent the dignity and rights of people who are homeless in our society, toward the goal of

preventing homelessness and seeking appropriate and affordable housing for all.

6. TFH and its members are very much opposed to HB 87. This law is tantamount to legalized profiling, a problem that has been a constant issue for TFH since its beginnings in the 1980's. TFH has filed complaints on behalf of homeless individuals on numerous occasions in the past, and with HB 87 in place, it will be more difficult to help victims of racial profiling. When a person of color is not dressed nicely, or appears shabby, police and security officials make assumptions and prevent these individuals from exercising basic rights.
7. After the 1996 Olympics, homeless men of color have been especially vulnerable to racial profiling by the police force.
8. There has been an increase in interest on the part of our volunteers and residents on being educated on what exactly HB 87 means to them. There has been an effort on our part to educate volunteers, residents, and members of the community on what exactly this law will entail. There is a fear that this will have a serious impact on all people of color. And the problem is compounded for our volunteers and residents because homeless people seldom have the necessary documentation to prove their status.

9. This is a very significant piece of legislation, and so it is a priority in terms of how we educate our volunteers and residents and about what we advocate. This is the most urgent issue we can address at this moment, and so other projects have fallen back in priority compared to this.
10. There is a concern about HB 87's impact on our volunteers and members in that now there will be a fear that all people will need to bring identification with them wherever they go. The practical difficulties of always carrying sufficient documentation for our residents are very real, and I fear that HB 87 will lead us into what closely resembles a police state.
11. One of the most important goals of TFH is to see that every person who comes asking for help receives assistance. There is no inquiry from the staff at TFH as to the documentation of any who benefit from services. We will not change that policy.
12. Because we run an emergency facility, we will never use documentation as a prerequisite for helping residents or others who need (or want) assistance. Our policies will not change because of the requirements stated in HB 87.

13. If an undocumented immigrant is on our premises or benefitting from our services, we will not question them or turn them over to the authorities or allow police to come in and detain them.

14. Volunteers and residents also do provide transportation occasionally as they are able to. HB 87 will make any future service of that kind risky.

15. We always encourage our residents to apply for food stamps, and we direct our residents to go to the local food stamp offices to do so.

Presently this does not take a lot of our time. However, because many of our residents do not have photo identification, I am very concerned that many who are eligible for food stamps will be found to lack a proper identification document under the new HB 87 rules. Food stamps are essential for many of our residents, and TFH will have to prioritize creating instructions and providing help for those who are turned away.

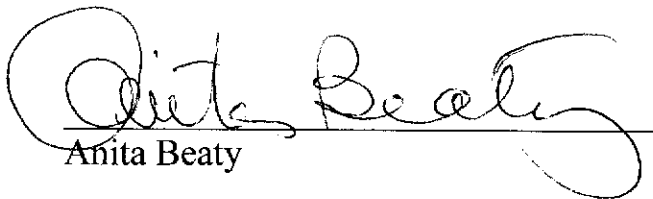
This will be a major impediment to our residents' access to essential services, and to TFH's work in other areas. As some homeless people are turned away from receiving food stamps due to lack of documentation required by HB 87, it is possible that TFH will see an influx of people needing additional assistance in terms of food support. In fact, some of our residents have been turned away from trying to recertify for Food Stamps

because they were asked to provide proof of citizenship IN ADDITION to the Georgia ID and Social Security card they already had presented.

16. We also try to place individuals in public housing when possible. Given the same identification restrictions HB 87 creates for public housing that it creates for food stamps, I expect a similar problem will happen for public housing, and TFH will likely be overburdened by requests from our residents for help with these new document requirements.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 7th day of June, 2011 in Atlanta, GA.

  
Anita Beaty

# **EXHIBIT 22**



**DECLARATION OF HELEN KIM HO**

I, Helen Kim Ho, hereby declare:

I make this declaration based on my personal knowledge and if called to testify I could and would do so competently as follows.

1. My name is Helen Kim Ho, and I am the Executive Director of Asian American Legal Advocacy Center, Inc. ("AALAC"). I am an attorney. I am licensed in Georgia, Texas, and New York. I have lived in Georgia a total of approximately seventeen years. I currently live in Atlanta, Georgia.

2. AALAC is located at 2750 Buford Highway, Suite 161, Atlanta, Georgia 30324.

3. AALAC received its 501(c)(3) status on or around April 2010. AALAC was launched approximately a year ago due to the growing number of Asian Americans and Asian immigrants in Georgia and the Southeast.

4. AALAC's mission is to protect and promote the civil, social, and economic rights of Asian Americans in Georgia and the Southeast. We engage in social justice issues through public policy, legal education, community organizing and leadership development. Our programs include immigration, youth and juvenile justice, language access, economic development, voter engagement and civic participation, and small business issues. AALAC believes in the power of

community organizing and the positive changes that result when groups and individuals mobilize around issues that impact us all.

5. AALAC is part of several local and regional coalitions in Georgia and the Southeast.

6. AALAC reaches approximately 3,000 people on an annual basis through our community forums and multilingual educational materials. We provide bilingual materials in Chinese, Korean, and Vietnamese through the assistance of interns and volunteers. We serve the Asian Pacific Islander, immigrant and refugee population regardless of age, gender, sexual orientation, and immigration status. We also serve the undocumented immigrant communities. We have conducted community education and public events on issues related to our program areas at least once a month. At each community education meeting, we are able to reach thirty to one hundred community members. We also facilitate meetings between community leaders in the Asian American community to local and state legislatures to foster dialogue and introduce grassroots leaders to civic engagement.

7. AALAC has exhausted staff and organizational resources in response to the passage of HB 87. We have conducted public policy analysis around HB 87 as it impacts the Asian American and immigrant communities in Georgia. We

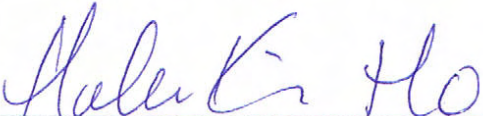


have translated HB 87 materials to Chinese, Korean and Vietnamese ethnic press and these materials have been used by our community partners. As a result of the passage of Arizona SB1070 and copycat laws, we have had to forgo organizing our regular community forums to respond to HB 87 and how Asian American and Asian immigrant communities would be impacted if such laws were enacted. We believe that HB 87 would encourage racial profiling of Asian Americans, Asian immigrants and hurt Asian American businesses. We believe that HB 87 would discourage civic participation and voter engagement of new immigrants and refugee communities. The law is already impacting AALAC's ability to satisfy its mission because members of the community are looking to AALAC for guidance on the impact of the law on their day-to-day lives, and we have been forced to respond to these needs before we can address the broader civil, social, and economic rights of Asian Americans in Georgia and the Southeast.

8. Partnering with the Korean American Association of Greater Atlanta, AALAC helped to gather approximately 4,000 signatures signed by Korean American residents of Gwinnett County opposing the passage of HB 87. Including signatures from online petitions, a total of 4,880 signatures by Georgia residents were delivered to key legislatures urging them to vote no to HB 87 and similar bills.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 1<sup>st</sup> day of June, 2011 in Atlanta, Georgia.

  
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Helen Kim Ho

# **EXHIBIT 23**

**Declaration of Mohammad Abdollahi Ali-Beik**

I, Mohammad Abdollahi Ali-Beik, hereby declare:

I make this declaration based on my personal knowledge and if called to testify I could and would do so competently as follows:

1. My name is Mohammad Abdollahi Ali-Beik, and I am a co-founder of an organization called DreamActivist.org. DreamActivist.org is a multicultural, migrant-youth led movement to pass the DREAM Act, also known as the Development, Relief, and Education for Alien Minors Act.

2. The DREAM Act is a bipartisan bill that seeks to address the situation faced by many young students who were brought to the United States as young infants. Under the most recent version of the DREAM Act, students with good moral character who came to the United States at age 15 or younger at least five years before the date of the legislation's enactment would qualify for "conditional permanent resident status" upon acceptance to college, graduation from a U.S. high school, or being awarded a GED in the United States or have served in the armed forces.

3. I currently live in Atlanta, Georgia. I was born in Iran. I came to the United States when I was about three years old with my parents who immigrated here to study. I have been living in the United States for the past twenty-two years. I am a DREAM Act student.

4. DreamActivist.org is a national organization covering ten regions across the country. Georgia is located in region four along with Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. We provide campaign support to DREAM Act students facing removal from the United States in Georgia and all across the country. As a co-founder, I take part in planning events which house undocumented students in houses within the

State of Georgia and/or provide transportation to undocumented students with and without deferred action grants. Under HB 87, these actions could be considered assisting, transporting, and harboring undocumented students in Georgia, which would make me liable for providing assistance to DREAM Act students.

5. We are also a part of another DREAM Act group called National Immigrant Youth Alliance (“NIYA”). I am one of the original co-founders of NIYA.

6. NIYA is an undocumented youth-led network of grassroots organizations, campus-based student groups, and individuals committed to equality for all immigrant youth, regardless of their legal status. NIYA is based in Georgia and provides on-line campaign support around DREAM Act related-issues. In March 2011, NIYA and DreamActivist.org organized a local conference in Georgia to bring together DREAM Act students fighting for immigration reform. Under HB 87, organizing such conferences would be deemed illegal.

7. We rent a house in Georgia to house out-of-state DREAM Act students for the summer. Many of these DREAM Act students are invited to come to Georgia to exchange experiences around organizing and mobilizing for the DREAM Act.

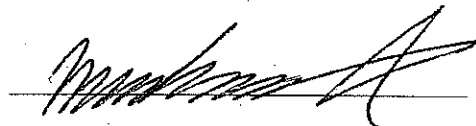
8. DreamActivist.org is a membership based organization with DREAM Act students who have been granted deferred action all over the country, including Georgia. Deferred action is a discretionary decision by Immigration and Customs Enforcement not to arrest or deport a person for immigration purposes. Deferred action is often granted for one year time periods, but can be renewed. However, the temporary and indefinite nature of deferred action means that a DREAM Act student granted deferred action would not be automatically eligible to obtain identity documents in Georgia, and such students often spend months out of each year with no identification while they wait for new documentation to prove that the federal

government has extended their deferred action status. There are no ICE – issued cards or documents for deferred action cases. Sometimes ICE does not provide letters indicating that a person was granted deferred action. DREAM Act students with deferred action would be targeted under HB 87 even though they are permitted to remain in the United States for a specific period of time.

9. Georgia members of DreamActivist.org may also have a private immigration bill introduced by a local Senator or House of Representative preventing their removal from the United States. Upon issuance of a private bill, a DREAM Act student's removal is delayed at least until the end of the congressional session. A DREAM Act student with a private bill introduced may not have proof that the bill was introduced or an officer may be confused as to whether a DREAM Act student with a private bill can remain in the United States. Under HB 87, Georgia DREAM Act students with a private bill introduced but not passed in either the House or Senate may be targeted and arrested under the law.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 6th day of June, 2011 in Atlanta, Georgia.



Mohammad Abdollahi Ali-Beik



# **EXHIBIT 24**

**DECLARATION OF ELISEO MEDINA**

I, Eliseo Medina, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently as follows.
2. I am the Secretary-Treasurer of the Service Employees International Union (“SEIU”). As Secretary-Treasurer I am familiar with SEIU and its affiliates’ governing documents, mission, and membership.
3. SEIU is one of the largest labor organizations in the world, representing 2.2 million working men and women who work primarily in the public sector and in janitorial, health services, long-term care, and security industries.
4. Many of SEIU’s members are recent immigrants to the United States, and many of its members come from racial minority groups.
5. In Georgia, SEIU has a local affiliate, the Southern Regional Joint Board of Workers’ United. This affiliate represents about 4,000 employees, of whom approximately 60 percent are members. These employees work in 28 different work sites across the state with about 75 percent residing in the Atlanta metropolitan Area. Between 15 and 20 percent of the employees the Joint Board represents are Latino and the majority of the remainder is other racial minorities.

6. SEIU works in partnership with the Southern Regional Joint Board and other groups to combat discrimination and mobilize for immigration reform at the national level.
7. The implementation of HB 87 will have a severe impact on SEIU's organizational mission.
8. Based on reports from SEIU organizers and staff, I understand that some of SEIU's Latino members or their families have already been subjected to stops by local law enforcement where they have been asked to produce proof of immigration status. SEIU will be harmed if HB 87 is implemented because its minority members will be even more likely to be stopped, detained, arrested, and questioned by state and local police. This will cause hardship for members of SEIU.
9. In addition, SEIU will be harmed if HB 87 is implemented because its members and potential members, regardless of nationality and immigration status, may refrain from exercising their rights to attend rallies, demonstrations, and union meeting or to engage in leafleting or other traditional labor activities because of the possibility of being stopped by police under HB 87. I have already heard reports of SEIU members who have expressed concern about being targeted by local police because of HB

87. This will significantly impact the ability of SEIU to protect its existing members.

10. In addition, the Latino community in Georgia is one of the fastest growing in the states and is heavily represented in the industries in which Workers United is concentrated—manufacturing, industrial laundries, and distribution.

11. Finally, the generalized fear of government bureaucracy in the atmosphere created by this bill has already led to reluctance on the part of members of this community to join the union and to take the perceived risk of supporting new organizing in unorganized workplaces, where the National Labor Relations Board is often involved.

12. SEIU joins this lawsuit to preserve its ability to organize new members and to protect the rights and interests of its members and prospective members.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 7<sup>th</sup> day of June 2011 in Washington, DC

A handwritten signature in black ink, appearing to read "Eliseo Medina", written over a horizontal line.

Eliseo Medina

# **EXHIBIT 25**

**DECLARATION OF HARRIS RAYNOR**

I, Harris Raynor, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently as follows.
2. I am the Regional Director of the Southern Regional Joint Board of Workers United (“Joint Board”), which is based out of Union City, Georgia. I am also a Vice President of Workers United, which, like the Joint Board, is a labor union and an affiliate of the Service Employees International United (“SEIU”).
3. Joint Board represents approximately 4,000 workers in Georgia. Over 15 percent of Joint Board’s Georgia membership is Latino, including U.S. citizens and lawful immigrants. The primary mission of Joint Board is to organize, represent, and empower employees in Georgia. In addition, Joint Board works in partnership with SEIU and other groups to combat discrimination and mobilize for immigration reform at the national level.
4. If HB 87 is permitted to take effect, it will impose direct harm to Joint Board’s core mission and representational obligations by subjecting Joint Board’s members to unlawful questioning, arrest, and detention by state and

local law enforcement officers. . This will cause hardship for members of Joint Board.

5. In addition, Joint Board will be harmed if HB 87 is implemented because its members and potential members may refrain from exercising their rights to attend rallies, demonstrations, and union meetings or to engage in leafleting or other traditional labor activities because of the possibility of being stopped by police under HB 87.
6. Members have already told the Joint Board that they have faced additional police scrutiny and questioning since HB 87 was passed. They believe this additional police scrutiny was based solely on their ethnic appearance and/or English speaking ability and was a direct result of the passage of HB 87.
7. This discriminatory treatment by law enforcement will significantly impede the ability of the Joint Board to protect its current members and to organize new members. Some members of Joint Board lack one of the documents listed in HB 87 as allowing law enforcement to establish identity of stopped individuals or do not regularly carry these documents with them when traveling in or through the state. Without these documents, the Joint Board's members may be subjected to lengthy detentions and potentially arrests while police officers investigate their immigration status under HB 87.

8. Joint Board will also be harmed if HB 87 is implemented because employers in the state may refrain from hiring members and potential members of the Joint Board that they believe look or sound “foreign” out of a fear that they will be subject to the increased liability under HB 87. This will seriously impact the ability of the Joint Board to recruit new members.
9. The Joint Board regularly provides transportation to members seeking to attend union meetings or other events organized by the Joint Board. The Joint Board does not inquire into the immigration status of the individuals for whom it provides transportation. HB 87’s provisions that criminalize individuals who transport undocumented immigrants will have a chilling effect on the Joint Board’s efforts to provide members with rides to these events. The Joint Board will have a more difficult time organizing transportation to these key union activities because people will be reluctant to associate with someone whose racial/ethnic appearance might result in getting the driver stopped for a minor traffic offense leading to further policy scrutiny and possible criminal prosecution under the law.
10. In addition, if HB 87 is implemented, Joint Board will need to spend significant new time educating members and potential members about the



law. This will divert the Joint Board's resources from other core organizational priorities.

11. The Joint Board routinely negotiates Collective Bargaining Agreements with employers. Almost universally these Agreements contain an article entitled, "Ethnic Diversity and Cultural Issues." This article covers issues around communication in various languages regarding health and safety, discipline, and other workplace issues. It also covers time off to deal with citizenship or immigration status matters and what documentation is requested by the employer. The implementation of HB 87 will require additional time to renegotiate this article to take into account the affects of the statute as well as its requirements of employers. For example, if Joint Board members are subject to increased stops and interrogations by local police officers regarding their immigration status, they may need more time off to deal with immigration status matters that arise.

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12. The Joint Board joins this lawsuit to preserve its ability to organize new members and to protect the rights and interests of its members and prospective members.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th date of June, 2011 in Union City, Georgia

A handwritten signature in cursive script, appearing to read "Harris L. Raynor", is written over a horizontal line. The signature is fluid and somewhat stylized, with a large loop at the end.

Harris L. Raynor

# **EXHIBIT 26**

**DECLARATION OF GABRIELA GONZALEZ-LAMBERSON**

I, Gabriela Gonzalez-Lamberson, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently as follows.
2. I am the Executive Director of the Instituto de Mexico, Inc. of Atlanta (“Instituto”).
3. Instituto is a non-profit organization registered in the state of Georgia and based in Atlanta.
4. Instituto is dedicated to fostering the development of the Mexican community in Atlanta the history and culture of Mexico in the United States. We place a special focus on educating Georgia youth with Mexican ancestry about their heritage and culture.
5. Instituto was founded in 2002, and its mission is to promote understanding and to share Mexican customs and traditions with residents of Atlanta and surrounding areas. We also work to cultivate friendship ties and mutual understanding of the cultural commonalities between the United States and Mexico.

6. To fulfill its mission, Instituto organizes cultural programs, which are open to all Atlanta-region residents without regard to immigration status, nationality, or citizenship.
7. These events draw attendees from across Atlanta and the rest of the state and regularly include thousands of participants.
8. Although Instituto's events are open to all, the majority of attendees are Latino, including U.S. citizens and others in lawful immigration status.
9. If HB 87 is implemented, Instituto will be harmed because attendance at its events will drop drastically, and this will undermine the Instituto's ability to achieve its central purpose as an organization—to promote understanding and educate the public about Mexican cultural heritage.
10. I have direct knowledge that already, since HB 87 passed, people have expressed fear of attending Instituto events. Individuals who regularly attend Instituto events have expressed that they are afraid to attend these events out of fear that they will be targeted by local police and will be subject to immigration status inquiries if they attend large group events with primarily Latino attendees.
11. The passage of HB 87 has created an intense climate of fear for Latinos in Georgia, and individuals of Latino descent are afraid that any contact with

law enforcement could result in extended interrogation, detention, and arrest regardless of their immigration status.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of June, 2011 in Atlanta, Georgia



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Gabriela Gonzalez-Lamberson

# **EXHIBIT 27**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Georgia Latino Alliance for Human  
Rights, et al.,

Plaintiffs,

v.

Governor Nathan Deal, et al.,

Defendants.

Case No. 1:11-cv-01804-TWT

**DECLARATION OF MOLLY LAUTERBACK**

I, Molly Lauterback, hereby declare:

1. I am a legal assistant for the American Civil Liberties Union Foundation Immigrants' Rights Project. Except where indicated, I make this Declaration based upon my personal knowledge.

2. Attached as Exhibit A is a true and correct copy of a Reuters news article by Matthew Bigg, "Obama criticizes new Georgia immigration law," dated April 26, 2011. I obtained the document by visiting the Reuters website, <http://www.reuters.com/article/2011/04/26/us-obama-immigration-georgia-idUSTRE73P7QD20110426>, on June 7, 2011.

3. Attached as Exhibit B is a true and correct copy of the transcript of the "Debate on HB 87 Before the Senate" from April 14, 2011. This transcript was prepared and attested as to its authenticity by Christina Hamilton, a freelance QA analyst.

4. Attached as Exhibit C is a true and correct copy of a News Release issued by the Office of the Lieutenant Governor entitled "Speaker



Ralston and Lt. Gov. Cagle Announce the Creation of the Special Joint Committee on Immigration Reform,” dated September 29, 2010. I obtained the document by visiting the official website for the state of Georgia, [http://ltgov.georgia.gov/00/press\\_print/0,2669,2199618\\_130107341\\_163595867,00.html](http://ltgov.georgia.gov/00/press_print/0,2669,2199618_130107341_163595867,00.html), on June 7, 2011.

5. Attached as Exhibit D is a true and correct copy of a News Release issued by the Governor of Georgia entitled “Deal signs immigration reform: Legislation protects taxpayers, employers while upholding rule of law,” dated May 13, 2011. I obtained the document by visiting the official website for the state of Georgia, [http://gov.georgia.gov/00/press/detail/0,2668,165937316\\_170988643\\_171299710,00.html](http://gov.georgia.gov/00/press/detail/0,2668,165937316_170988643_171299710,00.html), on June 7, 2011.

6. Attached as Exhibit E is a true and correct copy of the transcript of the “Debate on HB 87 Before the House,” from March 3, 2011. This transcript was prepared and attested as to its authenticity by Sheila Miller, a senior paralegal with the National Immigration Law Center.

7. Attached as Exhibit F is a true and correct copy of the transcript of the “Debate on HB 87 Before the H. Comm. on the Judiciary,” from February 8, 2011. This transcript was prepared and attested as to its authenticity by Judith K. Headrick, the owner of the Able Transcription Company.

8. Attached as Exhibit G is a true and correct copy of the Declaration of James B. Steinberg, filed in *United States v. Arizona*, No. 2:10-cv-01413-SRB (D. Ariz., filed July 6, 2010). I obtained a copy of the declaration by downloading it from the federal courts’ PACER website on June 7, 2011.

9. Attached as Exhibit H is a true and correct copy of a News Release issued by the Mexican Secretaría de Relaciones Exteriores entitled “The Mexican Government Regrets the Enactment of HB 87 in Georgia,” dated May 13, 2011. I obtained the document by visiting the official website for the government of Mexico, [http://www.sre.gob.mx/csocial/contenido/comunicados/2011/may/cp\\_157a.html](http://www.sre.gob.mx/csocial/contenido/comunicados/2011/may/cp_157a.html), on June 7, 2011.

10. Attached as Exhibit I is a true and correct copy of the Declaration of Michael Aytes, filed in *United States v. Arizona*, No. 2:10-cv-01413-SRB (D. Ariz., filed July 6, 2010). I obtained a copy of the declaration by downloading it from the federal courts’ PACER website on June 7, 2011.

11. Attached as Exhibit J is a true and correct copy of the Declaration of David V. Aguilar, filed in *United States v. Arizona*, No. 2:10-cv-01413-SRB (D. Ariz., filed July 6, 2010). I obtained a copy of the declaration by downloading it from the federal courts’ PACER website on June 7, 2011.

12. Attached as Exhibit K is a true and correct copy of the Declaration of David C. Palmatier, filed in *United States v. Arizona*, No. 2:10-cv-01413-SRB (D. Ariz., filed July 6, 2010). I obtained a copy of the declaration by downloading it from the federal courts’ PACER website on June 7, 2011.

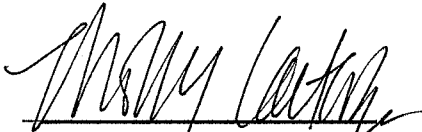
13. Attached as Exhibit L is a true and correct copy of the Declaration of Daniel H. Ragsdale, filed in *United States v. Arizona*, No. 2:10-cv-01413-SRB (D. Ariz., filed July 7, 2010). I obtained a copy of the

declaration by downloading it from the federal courts' PACER website on June 7, 2011.

14. Attached as Exhibit M is a true and correct copy of the Washington State Licensing Department's Proof of Identity Requirements for Obtaining a Drivers License. I obtained a copy of the document by visiting the official website for the State of Washington, <http://www.dol.wa.gov/driverslicense/idproof.html#identity>, on June 7, 2011.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 8th day of June, 2011 in New York, New York.

  
Molly Lauterback