

# Taxpayer and Citizen Protection

This Act makes it a felony to knowingly transport, conceal or harbor an illegal alien. Anyone found in violation and convicted may receive up to one year in prison and/or a fine not less than \$1,000. Since this is a new felony there is insufficient data available on the occurrence of this crime. The fiscal impact would be dependent upon the number of adjudicated cases.

The law requires all public employers to enter into a contract for the physical performance of services within the state or register and participate in the federal Status Verification System to verify the work authorization status of all new employees. The state department of labor is required to prescribe forms and promulgate rules and regulations necessary to administer the program and post the rules and regulations on its web site.

The Act directs the Attorney General to negotiate a Memorandum of Understanding between the state and the United States Department of Justice or the United States Department of Homeland Security concerning the enforcement of federal immigration and custom laws, detention and removals, and investigations in the state.

Submitted as:

Oklahoma

[HB1804](#)

Status: Enacted into law in 2007.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as the “Taxpayer and Citizen Protection  
2 Act.”

3  
4           Section 2. [*Legislative Findings.*]

5           A. Illegal immigration is causing economic hardship and lawlessness in this state and that  
6 illegal immigration is encouraged when public agencies within this state provide public benefits  
7 without verifying immigration status.

8           B. When illegal immigrants have been harbored and sheltered in this state and encouraged  
9 to reside in this state through the issuance of identification cards that are issued without verifying  
10 immigration status, these practices impede and obstruct the enforcement of federal immigration  
11 law, undermine the security of our borders, and impermissibly restrict the privileges and  
12 immunities of the citizens of this state.

13           C. Therefore, the people of this state declare that it is a compelling public interest of this  
14 state to discourage illegal immigration by requiring all agencies within this state to fully cooperate  
15 with federal immigration authorities in the enforcement of federal immigration laws.

16           D. Other measures are necessary to ensure the integrity of various governmental programs  
17 and services.

18  
19           Section 3. [*Definitions.*] As used in this Act:

20           1. “Status Verification System” means an electronic system operated by the federal  
21 government, through which an authorized official of an agency of this state or of a political  
22 subdivision therein may make an inquiry, by exercise of authority delegated pursuant to Section  
23 1373 of Title 8 of the United States Code, to verify or ascertain the citizenship or immigration

24 status of any individual within the jurisdiction of the agency for any purpose authorized by this  
25 Act. The Status Verification System shall be deemed to include:

26 a. the electronic verification of the Work Authorization Program of the  
27 Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, Division  
28 C, Section 403(a); 8 U.S.C., Section 1324a, and operated by the United States Department of  
29 Homeland Security, known as the Basic Pilot Program,

30 b. any equivalent federal program designated by the United States  
31 Department of Homeland Security or any other federal agency authorized to verify the work  
32 eligibility status of newly hired employees, pursuant to the Immigration Reform and Control Act  
33 of 1986 (IRCA), D.L. 99-603,

34 c. any other independent, third-party system with an equal or higher degree  
35 of reliability as the programs, systems, or processes described in this paragraph, or

36 d. the Social Security Number Verification Service, or such similar online  
37 verification process implemented by the United States Social Security Administration;

38 2. "Public employer" means every department, agency, or instrumentality of the  
39 state or a political subdivision of the state;

40 3. "Subcontractor" means a subcontractor, contract employee, staffing agency, or  
41 any contractor regardless of its tier; and

42 4. "Unauthorized alien" means an alien as defined in Section 1324a(h)(3) of Title 8  
43 of the United States Code.

44  
45 Section 4. [*Transporting or Harboring Aliens Illegally.*]

46 A. It shall be unlawful for any person to transport, move, or attempt to transport in this  
47 state any alien knowing or in reckless disregard of the fact that the alien has come to, entered, or  
48 remained in the United States in violation of law, in furtherance of the illegal presence of the alien  
49 in the United States.

50 B. It shall be unlawful for any person to conceal, harbor, or shelter from detection any  
51 alien in any place within this state, including any building or means of transportation, knowing or  
52 in reckless disregard of the fact that the alien has come to, entered, or remained in the United  
53 States in violation of law.

54 C. Nothing in this section shall be construed so as to prohibit or restrict the provision of  
55 any state or local public benefit described in 8 U.S.C., Section 1621(b), or regulated public health  
56 services provided by a private charity using private funds.

57 D. Any person violating the provisions of subsections A or B of this section shall, upon  
58 conviction, be guilty of a felony punishable by imprisonment in the custody of the [Department of  
59 Corrections] for not less than [(1) year] or by a fine of not less than [one thousand dollars  
60 (\$1,000.00)], or by both such fine and imprisonment.

61  
62 Section 5. [*Entities Which Can Create Identification Documents for U.S. Citizens.*]

63 A. The following entities may create, publish or otherwise manufacture an identification  
64 document, identification card, or identification certificate and may possess an engraved plate or  
65 other such device for the printing of such identification; provided, the name of the issuing  
66 entity shall be clearly printed upon the face of the identification:

67 1. businesses, companies, corporations, service organizations and federal, state and  
68 local governmental agencies for employee identification which is designed to identify the bearer  
69 as an employee;

70 2. businesses, companies, corporations and service organizations for customer  
71 identification which is designed to identify the bearer as a customer or member;

72 3. federal, state and local government agencies for purposes authorized or required  
73 by law or any legitimate purpose consistent with the duties of such an agency, including, but not  
74 limited to, voter identification cards, driver licenses, non-driver identification cards, passports,  
75 birth certificates and social security cards;

76 4. any public school or state or private educational institution, as defined by [insert  
77 citation], to identify the bearer as an administrator, faculty member, student or employee;

78 5. any professional organization or labor union to identify the bearer as a member  
79 of the professional organization or labor union; and

80 6. businesses, companies or corporations which manufacture medical-alert  
81 identification for the wearer thereof.

82 B. All identification documents as provided for in paragraph 3 or 4 of subsection A of this  
83 section shall be issued only to United States citizens, nationals and legal permanent resident  
84 aliens.

85 C. The provisions of subsection B of this section shall not apply when an applicant  
86 presents, in person, valid documentary evidence of:

87 1. a valid, unexpired immigrant or nonimmigrant visa status for admission into the  
88 United States;

89 2. a pending or approved application for asylum in the United States;

90 3. admission into the United States in refugee status;

91 4. a pending or approved application for temporary protected status in the United  
92 States;

93 5. approved deferred action status; or

94 6. a pending application for adjustment of status to legal permanent residence status  
95 or conditional resident status.

96 D. Upon approval, the applicant may be issued an identification document provided for in  
97 paragraph 3 or 4 of subsection A of this section. Such identification document shall be valid only  
98 during the period of time of the authorized stay of the applicant in the United States or, if there is  
99 no definite end to the period of authorized stay, a period of [one (1)] year. Any identification  
100 document issued pursuant to the provisions of this subsection shall clearly indicate that it is  
101 temporary and shall state the date that the identification document expires. Such identification  
102 document may be renewed only upon presentation of valid documentary evidence that the status  
103 by which the applicant qualified for the identification document has been extended by the United  
104 States Citizenship and Immigration Services or other authorized agency of the United States  
105 Department of Homeland Security.

106 E. The provisions of subsection B of this section shall not apply to an identification  
107 document described in paragraph 4 of subsection A of this section that is only valid for use on the  
108 campus or facility of that educational institution and includes a statement of such restricted  
109 validity clearly and conspicuously printed upon the face of the identification document.

110 F. Any driver license issued to a person who is not a United States citizen, national or legal  
111 permanent resident alien for which an application has been made for renewal, duplication or  
112 reissuance shall be presumed to have been issued in accordance with the provisions of subsection  
113 C of this section; provided that, at the time the application is made, the driver license has not  
114 expired, or been cancelled, suspended or revoked. The requirements of subsection C of this section  
115 shall apply, however, to a renewal, duplication or reissuance if the [Department of Public Safety]  
116 is notified by a local, state or federal government agency of information in the possession of the  
117 agency indicating a reasonable suspicion that the individual seeking such renewal, duplication or  
118 reissuance is present in the United States in violation of law. The provisions of this subsection  
119 shall not apply to United States citizens, nationals or legal permanent resident aliens.

120

121 Section 6. [*Determining Citizenship of People Who are Jailed.*]

122 A. When a person charged with a felony or driving under the influence pursuant to [insert  
123 citation] is confined, for any period, in the jail of the county, any municipality or a jail operated by  
124 a regional jail authority, a reasonable effort shall be made to determine the citizenship status of the  
125 person so confined.

126 B. If the prisoner is a foreign national, the keeper of the jail or other officer shall make a  
127 reasonable effort to verify that the prisoner has been lawfully admitted to the United States and, if  
128 lawfully admitted, that such lawful status has not expired. If verification of lawful status cannot be  
129 made from documents in the possession of the prisoner, verification shall be made within [forty-  
130 eight (48)] hours through a query to the Law Enforcement Support Center of the United States  
131 Department of Homeland Security or other office or agency designated for that purpose by the  
132 United States Department of Homeland Security. If the lawful immigration status of the prisoner  
133 cannot be verified, the keeper of the jail or other officer shall notify the United States Department  
134 of Homeland Security.

135 C. For the purpose of determining the grant of or issuance of bond, it shall be a rebuttable  
136 presumption that a person whose citizenship status has been verified pursuant to subsection B of  
137 this section to be a foreign national who has not been lawfully admitted to the United States is at  
138 risk of flight.

139  
140 Section 7. [*Verifying Public Employee Status.*]

141 A. Every public employer shall register with and use the Status Verification System as  
142 described in this Act to verify the federal employment authorization status of all new employees.

143 B. 1. After [July 1, 2008], no public employer shall enter into a contract for the  
144 physical performance of services within this state unless the contractor registers and participates in  
145 the Status Verification System to verify the work eligibility status of all new employees.

146 2. After [July 1, 2008], no contractor or subcontractor who enters into a contract  
147 with a public employer shall enter into such a contract or subcontract in connection with the  
148 physical performance of services within this state unless the contractor or subcontractor registers  
149 and participates in the Status Verification System to verify information of all new employees.

150 3. The provisions of this subsection shall not apply to any contracts entered into  
151 prior to the effective date of this section even though such contracts may involve the physical  
152 performance of services within this state after [July 1, 2008].

153 C. 1. It shall be a discriminatory practice for an employing entity to discharge an  
154 employee working in this state who is a United States citizen or permanent resident alien while  
155 retaining an employee who the employing entity knows, or reasonably should have known, is an  
156 unauthorized alien hired after [July 1, 2008], and who is working in this state in a job category that  
157 requires equal skill, effort, and responsibility, and which is performed under similar working  
158 conditions, as defined by 29 U.S.C., Section 206(d)(1), as the job category held by the discharged  
159 employee.

160 2. An employing entity which, on the date of the discharge in question, was  
161 currently enrolled in and used a Status Verification System to verify the employment eligibility of  
162 its employees in this state hired after [July 1, 2008], shall be exempt from liability, investigation,  
163 or suit arising from any action under this section.

164 3. No cause of action for a violation of this subsection shall arise anywhere in  
165 [state] law but from the provisions of this subsection.

166  
167 Section 8. [*Verifying Lawful Presence of People 14 years or Older Who Apply for Public*  
168 *Benefits.*]

169 A. Except as provided in subsection C of this section or where exempted by federal law,  
170 every agency or a political subdivision of this state shall verify the lawful presence in the United  
171 States of any natural person [fourteen (14)] years of age or older who has applied for state or local  
172 public benefits, as defined in 8 U.S.C., Section 1621, or for federal public benefits, as defined in 8  
173 U.S.C., Section 1611, that is administered by an agency or a political subdivision of this state.

174 B. The provisions of this section shall be enforced without regard to race, religion, gender,  
175 ethnicity, or national origin.

176 C. Verification of lawful presence under the provisions of this section shall not be  
177 required:

178 1. for any purpose for which lawful presence in the United States is not restricted  
179 by law, ordinance, or regulation;

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

183 3. for short-term, noncash, in-kind emergency disaster relief;

184 4. for public health assistance for immunizations with respect to diseases and for  
185 testing and treatment of symptoms of communicable diseases whether or not such symptoms are  
186 caused by a communicable disease; or

187 5. for programs, services, or assistance such as soup kitchens, crisis counseling and  
188 intervention, and short-term shelter specified by the United States Attorney General, in the sole  
189 and unreviewable discretion of the United States Attorney General after consultation with  
190 appropriate federal agencies and departments which:

191 a. deliver in-kind services at the community level, including through public  
192 or private nonprofit agencies,

193 b. do not condition the provision of assistance, the amount of assistance  
194 provided, or the cost of assistance provided on the income or resources of the individual recipient,  
195 and

196 c. are necessary for the protection of life or safety.

197 D. Verification of lawful presence in the United States by the state agency or political  
198 subdivision shall require that the applicant execute an affidavit under penalty of perjury that:

199 1. he or she is a United States citizen; or

200 2. he or she is a qualified alien under the federal Immigration and Nationality Act  
201 and is lawfully present in the United States.

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

204 F. For any applicant who has executed the affidavit described in paragraph 2 of subsection  
205 D of this section, eligibility for benefits shall be verified through the Systematic Alien Verification  
206 for Entitlements (SAVE) Program operated by the United States Department of Homeland  
207 Security or an equivalent program designated by the United States Department of Homeland  
208 Security. Until such eligibility verification is made, the affidavit may be presumed to be proof of  
209 lawful presence for the purposes of this section.

210 G. Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
211 statement of representation in an affidavit executed pursuant to subsection D of this section shall  
212 be subject to criminal penalties applicable in this state for fraudulently obtaining public assistance  
213 program benefits. If the affidavit constitutes a false claim of U.S. citizenship under 18 U.S.C.,  
214 Section 911, a complaint shall be filed by the agency requiring the affidavit with the United States  
215 Attorney General for the applicable district based upon the venue in which the affidavit was  
216 executed.

217 H. Agencies or political subdivisions of this state may adopt variations to the requirements  
218 of the provisions of this section which demonstrably improve the efficiency or reduce delay in the  
219 verification process, or to provide for adjudication of unique individual circumstances where the  
220 verification procedures in this section would impose unusual hardship on a legal resident of this  
221 state.

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

225 J. Each state agency or department which administers any program of state or local public  
226 benefits shall provide an annual report to the [Governor, the President Pro Tempore of the Senate  
227 and the Speaker of the House of Representatives] with respect to its compliance with the  
228 provisions of this section. Each agency or department shall monitor the Systematic Alien  
229 Verification for Entitlements Program for application verification errors and significant delays and  
230 shall provide an annual public report on such errors and significant delays and recommendations  
231 to ensure that the application of the Systematic Alien Verification of Entitlements Program is not  
232 erroneously denying benefits to legal residents of this state. Errors shall also be reported to the  
233 United States Department of Homeland Security by each agency or department.  
234

235 Section 9. [*Requiring Contractors to Withhold State Income Taxes of Unauthorized Alien*  
236 *Laborers.*]

237 A. If an individual independent contractor, contracting for the physical performance of  
238 services in this state, fails to provide to the contracting entity documentation to verify the  
239 independent contractor's employment authorization, pursuant to the prohibition against the use of  
240 unauthorized alien labor through contract set forth in 8 U.S.C., Section 1324a(a)(4), the  
241 contracting entity shall be required to withhold state income tax at the top marginal income tax  
242 rate as provided in [insert citation] as applied to compensation paid to such individual for the  
243 performance of such services within this state which exceeds the minimum amount of  
244 compensation the contracting entity is required to report as income on United States Internal  
245 Revenue Service Form 1099.

246 B. Any contracting entity who fails to comply with the withholding requirements of this  
247 subsection shall be liable for the taxes required to have been withheld unless such contracting  
248 entity is exempt from federal withholding with respect to such individual pursuant to a properly  
249 filed Internal Revenue Service Form 8233 or its equivalent.

250 C. Nothing in this section is intended to create, or should be construed as creating, an  
251 employer-employee relationship between a contracting entity and an individual independent  
252 contractor.  
253

254 Section 10. [*Memorandum of Understanding to Enforce Immigrations and Customs Laws.*]

255 A. The [Attorney General] is authorized and directed to negotiate the terms of a  
256 Memorandum of Understanding between [state] and the United States Department of Justice or the  
257 United States Department of Homeland Security, as provided by Section 1357(g) of Title 8 of the  
258 United States Code, concerning the enforcement of federal immigration and customs laws,  
259 retention and removals, and investigations in this state.

260 B. The Memorandum of Understanding negotiated pursuant to subsection A of this section  
261 shall be signed on behalf of this state by the [Attorney General and the Governor] or as otherwise  
262 required by the appropriate federal agency.

263 C. No local government, whether acting through its governing body or by an initiative,  
264 referendum, or any other process, shall enact any ordinance or policy that limits or prohibits a law  
265 enforcement officer, local official, or local government employee from communicating or

266 cooperating with federal officials with regard to the immigration status of any person within this  
267 state.

268 D. Notwithstanding any other provision of law, no government entity or official within this  
269 state may prohibit, or in any way restrict, any government entity or official from sending to, or  
270 receiving from, the United States Department of Homeland Security, information regarding the  
271 citizenship or immigration status, lawful or unlawful, of any individual.

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

275 1. sending such information to, or requesting or receiving such information from,  
276 the United States Department of Homeland Security;

277 2. maintaining such information; or

278 3. exchanging such information with any other federal, state, or local government  
279 entity.

280 F. The provisions of this section shall allow for a private right of action by any natural or  
281 legal person lawfully domiciled in this state to file for a writ of mandamus to compel any non-  
282 cooperating local or state governmental agency to comply with such reporting laws.

283 G. Except as otherwise provided in [insert citation], an individual who is not lawfully  
284 present in the United States shall not be eligible on the basis of residence within the state for:

285 1. any postsecondary education benefit, including, but not limited to, scholarships  
286 or financial aid; or

287 2. resident tuition.

288 H. The provisions of subsection A of this section shall not apply to a student enrolled in a  
289 degree program at a postsecondary educational institution within this state's system of higher  
290 education during the [2006-2007] school year or any prior year who received a resident tuition  
291 benefit pursuant to [insert citation] at that institution.

292

293 Section 11. [*Fraudulent Documents Identification Unit.*] Subject to the availability of  
294 funding, the [Department of Public Safety] shall establish a [Fraudulent Documents Identification  
295 (FDI) Unit] for the primary purpose of investigating and apprehending people or entities that  
296 participate in the sale or distribution of fraudulent documents used for identification purposes. The  
297 [unit] shall additionally specialize in fraudulent identification documents created and prepared for  
298 people who are unlawfully residing within this state. The [Department] shall employ sufficient  
299 employees to investigate and implement an [FDI Unit].

300

301 Section 12. [*Student Eligibility for Resident Tuition.*]

302 A. The [State Regents for Higher Education] may adopt a policy which allows a student to  
303 enroll in an institution within state system of higher education and allows a student to be eligible  
304 for resident tuition if the student:

305 1. graduated from a public or private high school in this state; and

306 2. resided in this state with a parent or legal guardian while attending classes at a  
307 public or private high school in this state for at least [two (2)] years prior to graduation.

308 B. To be eligible for the provisions of subsection A of this section, an eligible student  
309 shall:

310 1. satisfy admission standards as determined by the [State Regents for Higher  
311 Education] for the appropriate type of institution and have secured admission to, and enrolled in,  
312 an institution within state system of higher education; and

313 2. if the student cannot present to the institution valid documentation of United  
314 States nationality or an immigration status permitting study at a postsecondary institution:

315 a. provide to the institution a copy of a true and correct application or a  
316 petition filed with the United States Citizenship and Immigration Services to legalize the student's  
317 immigration status, or  
318 b. file an affidavit with the institution stating that the student will file an  
319 application to legalize his or her immigration status at the earliest opportunity the student is  
320 eligible to do so, but in no case later than:  
321 I. [one (1)] year after the date on which the student enrolls for study  
322 at the institution, or  
323 II. if there is no formal process to permit children of parents without  
324 lawful immigration status to apply for lawful status without risk of deportation, [one (1)] year after  
325 the date the United States Citizenship and Immigration Services provide such a formal process,  
326 and  
327 c. if the student files an affidavit pursuant to subparagraph b of this  
328 paragraph, present to the institution a copy of a true and correct application or petition filed with  
329 the United States Citizenship and Immigration Services no later than:  
330 I. one (1) year after the date on which the student enrolls for study at  
331 the institution, or  
332 II. if there is no formal process to permit children of parents without  
333 lawful immigration status to apply for lawful status without risk of deportation, [one (1)] year after  
334 the date the United States Citizenship and Immigration Services provide such a formal process,  
335 which copy shall be maintained in the institution's records for that student.  
336 C. Any student who completes the required criteria prescribed in subsection A and of this  
337 section, paragraph 1 of subsection B of this section, and subparagraph a of paragraph 2 of  
338 subsection B of this section shall not be disqualified on the basis of the student's immigration  
339 status from any scholarships or financial aid provided by this state.  
340 D. The provisions of this section shall not impose any additional conditions to maintain  
341 resident tuition status at a postsecondary educational institution within the state system of higher  
342 education on a student who was enrolled in a degree program and first received such resident  
343 tuition status at that institution during the [2006-2007] school year or any prior year.

344 Section 13. [*Severability.*] [Insert severability clause.]

345 Section 14. [*Repealer.*] [Insert repealer clause.]

346 Section 15. [*Effective Date.*] [Insert effective date.]