



ACLU of Utah's Immigrants' Rights Project

Senate Bill 81 "Illegal Immigration"

Last year's infamous piece of legislation, **SB 81 "Illegal Immigration,"** is due to be implemented in July 2009, with a few minor adjustments. We are in good company as we continue to oppose the implementation of SB 81, with Chambers of Commerce, police departments, AILA attorneys, immigrant advocates and churches all expressing concern about the legislation. Prior to its passage last session, the ACLU of Utah voiced its objections to the legislation including concern about its constitutionality and the requirement to use the flawed E-verify program for Utah employees. With a new administration in Washington, there is also a promise of immigration reform, which would negate Utah's efforts to control immigration on the state level.

- ◆ Immigration has always been a strictly federal area of law in which the U.S. Congress regulates who can enter the United States, who must leave, who may stay and on what conditions. States do not have jurisdiction over the issue of immigration. Federal law preempts the state's attempts to control immigration.
 - Any incursion by states into an area that is a matter of federal law could subject the state to legal liability for preempting an area of federal law.
 - An example are states such as Arizona and Oklahoma and cities such as Hazelton, Pennsylvania, which have been forced to defend, often unsuccessfully, local immigration laws in costly and contracted litigation.
- ◆ Requiring employers to use e-verify to verify the legal status of employees is not sound policy and may conflict with federal law:
 - Federal work authorization programs violate the privacy rights of all American workers, giving the government as well as employers access to massive databases of information on individuals, which can also be a target for terrorists or hackers;
 - United States citizens will be required for the first time in our history to get the federal government's permission to work;
 - The databases upon which E-verify rely are flawed. Social Security Administration estimates that 17.8 million of its records contain discrepancies related to name, date of birth, or citizenship status, with 12.7 million of those problem records pertaining to U.S. citizens. This means that as many as 1 in 25 new hires could be erroneously flagged as ineligible to work. Thousands of U.S. Citizens and legal workers could be denied work because of a government error. Their very livelihood is at stake.
- ◆ Local law enforcement used to enforce immigration law endangers public safety:
 - Everyone's safety, including that of U.S. citizens, is put in jeopardy when immigrants do not feel safe to come forward with crucial information when crimes are committed against them, their families or the larger community;
 - Asking local and state law enforcement agencies to enforce federal immigration laws strains their already overburdened resources and will require substantial resource commitments of their time, training and administrative costs.
- ◆ Denial of bail to undocumented immigrants is unconstitutional:
 - It runs afoul of the Constitutional guarantee against excessive bail, which applies to all people, not only U.S. citizens.

We at the ACLU urge you to consider the real and important need for federal legislation in the area of immigration and rather than support the implementation of SB 81, which will lead to unnecessary, costly litigation, to write or call your legislator encouraging them to delay SB 81's implementation.

You can find your legislators by visiting the legislative website <http://le.utah.gov/Documents/find.htm>.

Keep up-to-date with all of the ACLU of Utah's upcoming events and action alerts by signing up for the ACLU of Utah's Activist email list from our website at www.acluutah.org/activist.htm.