

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

Hispanic Interest Coalition of Alabama, et al.,

Plaintiffs,

v.

Governor Robert Bentley, et al.,

Defendants.

Case No. 5:11-cv-02484-SLB

**Exhibits in Support of
Plaintiffs' Motion For
Preliminary Injunction
And Memorandum In
Support**

Exhibit M to Exhibit 42

**Bryan Lyman, *Immigration law makes school officials uneasy*, The Montgomery Advertiser,
June 8, 2011**

Immigration law makes school officials uneasy

Montgomery Advertiser - Montgomery, Ala.

Author: Brian Lyman

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A provision in Alabama's immigration law requiring schools to collect citizenship information on undocumented aliens may raise objections from the U.S. Justice Department and is making some education officials uneasy.

The legislation, passed last week, includes a provision that requires public schools to determine the citizenship of students enrolling in the school, either by confirmation of a birth certificate or of documents establishing the citizenship or immigration status of the child.

Sen. Scott Beason, R-Gardendale, one of the sponsors of the bill, said the section is designed to gather information on the number of undocumented aliens in public schools and the price of educating them.

"That is where one of our largest costs come from," he said. "It's part of the cost factor. Are the parents here illegally, and if they were not here at all, would there be a cost?"

The Justice Department's Civil Rights Division said in a May 6 letter to school districts nationwide that "student enrollment practices that may chill or discourage" the enrollment of undocumented aliens, based on their immigration status or their parents', violated federal law.

"The undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student's entitlement to an elementary and secondary public education," the letter states.

Louis Fryer, attendance coordinator for Elmore County Public Schools, said asking for papers would effectively discourage student enrollment and create legal issues.

"Once you start asking that question, you get to the point where you're tacitly trying to deny access to school," he said. "Not many people are going to try to enroll students if they are illegal immigrants."

The law, still awaiting the signature of Gov. Robert Bentley, requires school boards to submit citizenship data to the State Board of Education. The State BOE is required to compile that data into an annual report to the Legislature that analyzes the effects or expected effects of the presence of undocumented students on those "who are citizens of the United States residing in Alabama."

The Supreme Court ruled in 1982 that undocumented aliens could not be denied public education based on their immigration status. The case, *Plyler v. Doe*, involved a Texas law that denied money for the education of undocumented children and a school district that tried to charge children without documentation tuition to attend public school. The court ruled the laws were "directed against children" and violated the 14th Amendment.

Beason said sponsors studied *Plyler v. Doe* in drafting the legislation and were careful to reflect its requirements.

"This section is specifically designed to know how much the cost is," he said. "I think it's completely within the boundaries."

The Alabama immigration law lists "primary and secondary school education" as one of the public benefits where verification of residency is not required, and contains no specific provisions barring the enrollment of children with questionable immigration status in public schools.

However, schools are mandated to determine the citizenship status of students, while parents of students with questionable status are required to provide documentation to the school within 30 days of the student's enrollment.

"As written, the law does not say you should turn them away at (the) doorstep," said Sam Brooke, an attorney with the Southern Poverty Law Center who works on immigration issues. "But the effect is going to be exactly that. If you pass a law that has chilling effect on constitutional rights, that's just as bad as passing a law banning the right in the first place."

The DOJ said school districts may ask for birth certificates to establish a student's age, but "may not bar a student from enrolling in its schools based on a foreign birth certificate."

Rep. Becky Nordgren, R-Gadsden, introduced a bill earlier this year that would have required school superintendents to

notify law enforcement officials of parents who failed to provide proof of citizenship or immigration status to local school districts. The legislation did not make it out of committee.

Sally Howell, executive director of the Alabama Association of School Boards, said school boards would comply with the reporting requirements, but would prefer the section be eliminated, fearing it exposed school boards to litigation.

"School boards are going to comply with (the) law of land," she said. "But we don't want to be caught in the crosshairs of a constitutional battle."

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Abstract (Document Summary)

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