

IMMIGRATION

Identification Documents HB 07-1313 (Vetoed) <i>Identity Documents Evidence</i> SB 07-094 (Postponed Indefinitely) <i>Use Of Fraudulent Documents</i>
Criminal Aliens HB 07-1040 (Enacted) <i>Warrants And Bonds For Illegal Immigrants</i>
Employer Verification SB 07-029 (Postponed Indefinitely) <i>Employers' Use Of Verification Program</i>
Voting HB 07-1138 (Postponed Indefinitely) <i>Proof Of Citizenship In Elections</i> SB 07-065 (Postponed Indefinitely) <i>Proof Of Citizenship To Register To Vote</i>
Trespassing HB 07-1007 (Postponed Indefinitely) <i>Trespass By Illegal Aliens Crime</i>

During the 2007 session, the General Assembly considered a number of bills relating to immigration. The legislature adopted a bill concerning persons who are illegally present in the country who commit crimes. In addition, a bill concerning the documentation persons in the state may use to prove legal status and qualify for public benefits was passed by the legislature, but vetoed by the Governor. A number of other proposals concerning voting, employer checks of potential employees' legal status, the use of fraudulent identification documents, and trespassing by persons illegal present in the country were not successful.

Identification Documents

Under current law, the Department of Revenue has the authority to determine which documents may be used as valid forms of identification to obtain a driver's license and to issue rules on which documents may be used to obtain public benefits. **House Bill 07-1313**, which was vetoed by the Governor, required that an applicant for a driver's license provide evidence of identity, age, and lawful presence in the United States before being issued a driver's license. The following documents could have been used to establish identity, age, and lawful presence in the United States:

- a U.S. passport;
- a driver's license issued by the United States or any state that requires proof of lawful presence in the United States to obtain the license;
- a military identification card; and

- a foreign passport in conjunction with an appropriate visa or other immigration documents.

The bill listed other documents that could have been used, in conjunction, to prove age, identity, and legal status. In addition, the bill required the department to establish exception procedures to allow persons to demonstrate identity, age, and lawful presence through relevant and reasonable evidence, including expired documents, photocopies of documents, and witness testimony.

If the department denied an application for a driver's license, the applicant could have requested a hearing. The applicant could have petitioned for judicial review in district court if the applicant was not satisfied with the hearing.

Senate Bill 07-094 would have created the crime of the use of forged documentation, a class 6 felony. A person committed the crime of the use of forged documentation if he or she was present in the country in violation of federal immigration laws and used fraudulent documentation to attempt to secure employment or a public benefit. Officers arresting persons pursuant to the bill were required to report the arrest to the U.S. Immigration and Customs Enforcement Agency. The court was not permitted to accept a plea bargain for persons charged with the use of forged documentation. The bill was postponed indefinitely.

Criminal Aliens

In response to concerns that persons illegally present in the country who commit crimes may have criminal charges dropped if they are deported, the General Assembly enacted **House Bill 07-1040**. The bill requires the court, in the cases of persons who have posted a bond in a criminal case and who are subsequently released to the U.S. Immigration and Customs Enforcement Agency, to issue a warrant and to set the amount of the bond on the warrant. The warrant must be entered into the Colorado Crime Information Center and the National Crime Information Center databases, and must command that the person be arrested when contacted anywhere in the United States.

Under the bill, a court is not permitted to dismiss criminal charges against a person because the person has been or may be removed from the United States, except upon a motion of the district attorney. If a person is convicted of a crime and the person has been or may be removed from the United States, the court is not permitted to dismiss the charges, and the person must serve his or her sentence and pay restitution prior to removal.

If a law enforcement agency determines that a defendant charged with a felony or a class 1 or 2 misdemeanor is likely in the country illegally, the agency must notify the defendant's bail bonding agent in writing. Prior to bail being posted for the defendant, the defendant or the person posting bond on behalf of the defendant must sign a waiver stating that the bond and fees will be forfeited if the defendant is removed from the country. If a defendant is removed from the country, any bond posted on behalf of the defendant is forfeited, and the bail bonding agent must return all collected fees to the court. The forfeited bonds and fees are credited to the Capital Construction Fund to pay for prison bed construction and prison operations.

Employer Verification

Similar to a bill proposed last year, **Senate Bill 07-029** would have required all nongovernmental employers in the state to apply to participate in the federal Basic Pilot Program and to participate if accepted into the program. The federal Basic Pilot Program allows employers to verify the social security numbers of newly hired employees. Employers that failed to apply for the program faced fines of between \$500 and \$3,000, depending upon the size of the employer. Employers were required to fire employees whose social security numbers could not be verified through the program. Employers who did not fire such employees could have been fined up to \$50 per day. The Department of Labor and Employment was responsible for investigating complaints that employers were not complying with the provisions of the bill, and for notifying employers of the requirements of the bill. The bill was postponed indefinitely.

Voting

Also similar to legislation proposed in the previous legislative session, **Senate Bill 07-065**, postponed indefinitely, would have required all persons registering to vote on and after the effective date of the bill to submit proof of citizenship. Overseas military personnel and other overseas voters were exempt from the requirements. Proof of citizenship did not include proof of voter registration from another state, but did include:

- a valid U.S. passport, or a copy of the pages of the passport that identify the person and show the passport number;
- a birth certificate or a photocopy of a birth certificate;
- a naturalization document or a photocopy of the document; and
- any document or method of proving citizenship established by federal law.

A similar bill, **House Bill 07-1138**, was also postponed indefinitely.

Trespassing

House Bill 07-1007 would have created the crime of trespassing by an illegal alien. A person committed the crime of trespassing by an illegal alien if the person was in the state while in violation of federal immigration law. Trespassing by an illegal alien was an unclassified misdemeanor punishable by a fine of \$500 for a first offense, a class 1 misdemeanor for a second offense, and a class 4 felony for a third and subsequent offense.