

115TH CONGRESS
2D SESSION

H. R. 6318

To amend section 275(a) of the Immigration and Nationality Act to change the first commission of one of the criminal offenses described in that section from a misdemeanor to a felony, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2018

Mrs. BLACK introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, Ways and Means, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend section 275(a) of the Immigration and Nationality Act to change the first commission of one of the criminal offenses described in that section from a misdemeanor to a felony, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—GENERAL PROVISIONS**

4 **SECTION 101. SHORT TITLE.**

5 This title may be cited as the “Zero Tolerance for
6 Illegal Entry Act”.

1 **SEC. 102. CHANGE IN CRIMINAL PENALTIES.**

2 Section 275 of the Immigration and Nationality Act
3 (8 U.S.C. 1325) is amended—

4 (1) by striking “not more than 6 months,” and
5 inserting “not less than 1 year and 1 day,”; and

6 (2) by adding at the end the following:

7 “(e) Nothing in this section shall be construed as lim-
8 iting the authority of the Secretary of Homeland Security,
9 in the Secretary’s sole unreviewable discretion, to deter-
10 mine whether an alien described in clause (ii) of section
11 235(b)(1)(B) shall be detained or released after a finding
12 of a credible fear of persecution (as defined in clause (v)
13 of such section).”.

14 **SEC. 103. REDIRECTING FUNDS FROM SANCTUARY JURIS-**
15 **DICTIONS.**

16 (a) IN GENERAL.—Amounts appropriated for each
17 sanctuary jurisdiction for fiscal year 2018 and each subse-
18 quent fiscal year under title II of the Public Works and
19 Economic Development Act of 1965 (42 U.S.C. 3141 et
20 seq.) and title I of the Housing and Community Develop-
21 ment Act of 1974 (42 U.S.C. 5301et seq.) shall be with-
22 held and transferred to the Secretary of Homeland Secu-
23 rity for use by U.S. Immigration and Customs Enforce-
24 ment to enforce the Federal laws governing border control,
25 immigration, customs, and trade in order to ensure home-
26 land security and public safety.

1 (b) SANCTUARY JURISDICTION DEFINED.—

2 (1) IN GENERAL.—Except as provided under
3 paragraph (2), for purposes of subsection (a), the
4 term “sanctuary jurisdiction” means any State or
5 political subdivision of a State that has in effect a
6 statute, ordinance, policy, or practice that prohibits
7 or restricts any government entity or official from—

8 (A) sending, receiving, maintaining, or ex-
9 changing with any Federal, State, or local gov-
10 ernment entity information regarding the citi-
11 zenship or immigration status (lawful or unlaw-
12 ful) of any individual; or

13 (B) complying with a request lawfully
14 made by the Department of Homeland Security
15 under section 236 or 287 of the Immigration
16 and Nationality Act (8 U.S.C. 1226 and 1357)
17 to comply with a detainer for, or notify about
18 the release of, an individual.

19 (2) EXCEPTION.—A State or political subdivi-
20 sion of a State shall not be deemed a sanctuary ju-
21 risdiction based solely on its having a policy whereby
22 its officials will not share information regarding, or
23 comply with a request made by the Department of
24 Homeland Security under section 236 or 287 of the
25 Immigration and Nationality Act (8 U.S.C. 1226

1 and 1357) to comply with a detainer regarding, an
2 individual who comes forward as a victim or a wit-
3 ness to a criminal offense.

4 **TITLE II—ACCOUNTABILITY**
5 **THROUGH ELECTRONIC**
6 **VERIFICATION ACT**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Accountability
9 Through Electronic Verification Act”.

10 **SEC. 202. PERMANENT REAUTHORIZATION.**

11 Section 401(b) of the Illegal Immigration Reform and
12 Immigrant Responsibility Act of 1996 (division C of Pub-
13 lic Law 104–208; 8 U.S.C. 1324a note) is amended by
14 striking “Unless the Congress otherwise provides, the Sec-
15 retary of Homeland Security shall terminate a pilot pro-
16 gram on September 30, 2015.”.

17 **SEC. 203. MANDATORY USE OF E-VERIFY.**

18 (a) FEDERAL GOVERNMENT.—Section 402(e)(1) of
19 the Illegal Immigration Reform and Immigrant Responsi-
20 bility Act of 1996 (8 U.S.C. 1324a note) is amended—

21 (1) by amending subparagraph (A) to read as
22 follows:

23 “(A) EXECUTIVE DEPARTMENTS AND
24 AGENCIES.—Each department and agency of
25 the Federal Government shall participate in E-

1 Verify by complying with the terms and condi-
2 tions set forth in this section.”; and

3 (2) in subparagraph (B), by striking “, that
4 conducts hiring in a State” and all that follows and
5 inserting “shall participate in E-Verify by complying
6 with the terms and conditions set forth in this sec-
7 tion.”.

8 (b) FEDERAL CONTRACTORS; CRITICAL EMPLOY-
9 ERS.—Section 402(e) of such Act, as amended by sub-
10 section (a), is further amended—

11 (1) by redesignating paragraphs (2) and (3) as
12 paragraphs (4) and (5), respectively; and

13 (2) by inserting after paragraph (1) the fol-
14 lowing:

15 “(2) UNITED STATES CONTRACTORS.—Any per-
16 son, employer, or other entity that enters into a con-
17 tract with the Federal Government shall participate
18 in E-Verify by complying with the terms and condi-
19 tions set forth in this section.

20 “(3) DESIGNATION OF CRITICAL EMPLOYERS.—
21 Not later than 7 days after the date of the enact-
22 ment of this paragraph, the Secretary of Homeland
23 Security shall—

1 “(A) conduct an assessment of employers
2 that are critical to the homeland security or na-
3 tional security needs of the United States;

4 “(B) designate and publish a list of em-
5 ployers and classes of employers that are
6 deemed to be critical pursuant to the assess-
7 ment conducted under subparagraph (A); and

8 “(C) require that critical employers des-
9 ignated pursuant to subparagraph (B) partici-
10 pate in E-Verify by complying with the terms
11 and conditions set forth in this section not later
12 than 30 days after the Secretary makes such
13 designation.”.

14 (c) ALL EMPLOYERS.—Section 402 of such Act, as
15 amended by this section, is further amended—

16 (1) by redesignating subsection (f) as sub-
17 section (g); and

18 (2) by inserting after subsection (e) the fol-
19 lowing:

20 “(f) MANDATORY PARTICIPATION IN E-VERIFY.—

21 “(1) IN GENERAL.—Subject to paragraphs (2)
22 and (3), all employers in the United States shall
23 participate in E-Verify, with respect to all employees
24 recruited, referred, or hired by such employer on or

1 after the date that is 1 year after the date of the
2 enactment of this subsection.

3 “(2) USE OF CONTRACT LABOR.—Any employer
4 who uses a contract, subcontract, or exchange to ob-
5 tain the labor of an individual in the United States
6 shall certify in such contract, subcontract, or ex-
7 change that the employer uses E-Verify. If such cer-
8 tification is not included in a contract, subcontract,
9 or exchange, the employer shall be deemed to have
10 violated paragraph (1).

11 “(3) INTERIM MANDATORY PARTICIPATION.—

12 “(A) IN GENERAL.—Before the date set
13 forth in paragraph (1), the Secretary of Home-
14 land Security shall require any employer or
15 class of employers to participate in E-Verify,
16 with respect to all employees recruited, referred,
17 or hired by such employer if the Secretary has
18 reasonable cause to believe that the employer is
19 or has been engaged in a material violation of
20 section 274A of the Immigration and Nation-
21 ality Act (8 U.S.C. 1324a).

22 “(B) NOTIFICATION.—Not later than 14
23 days before an employer or class of employers
24 is required to begin participating in E-Verify
25 pursuant to subparagraph (A), the Secretary

1 shall provide such employer or class of employ-
2 ers with—

3 “(i) written notification of such re-
4 quirement; and

5 “(ii) appropriate training materials to
6 facilitate compliance with such require-
7 ment.”.

8 **SEC. 204. CONSEQUENCES OF FAILURE TO PARTICIPATE.**

9 (a) IN GENERAL.—Section 402(e)(5) of the Illegal
10 Immigration Reform and Immigrant Responsibility Act of
11 1996 (8 U.S.C. 1324a note), as redesignated by section
12 203(b)(1), is amended to read as follows:

13 “(5) CONSEQUENCES OF FAILURE TO PARTICI-
14 PATE.—If a person or other entity that is required
15 to participate in E-Verify fails to comply with the
16 requirements under this title with respect to an indi-
17 vidual—

18 “(A) such failure shall be treated as a vio-
19 lation of section 274A(a)(1)(B) of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1324a) with
21 respect to such individual; and

22 “(B) a rebuttable presumption is created
23 that the person or entity has violated section
24 274A(a)(1)(A) of such Act.”.

1 (b) PENALTIES.—Section 274A of the Immigration
2 and Nationality Act (8 U.S.C. 1324a) is amended—

3 (1) in subsection (e)—

4 (A) in paragraph (4)—

5 (i) in subparagraph (A)—

6 (I) in the matter preceding clause

7 (i), by inserting “, subject to para-
8 graph (10),” after “in an amount”;

9 (II) in clause (i), by striking “not
10 less than \$250 and not more than
11 \$2,000” and inserting “not less than
12 \$2,500 and not more than \$5,000”;

13 (III) in clause (ii), by striking
14 “not less than \$2,000 and not more
15 than \$5,000” and inserting “not less
16 than \$5,000 and not more than
17 \$10,000”; and

18 (IV) in clause (iii), by striking
19 “not less than \$3,000 and not more
20 than \$10,000” and inserting “not less
21 than \$10,000 and not more than
22 \$25,000”; and

23 (ii) by amending subparagraph (B) to
24 read as follows:

1 “(B) may require the person or entity to
2 take such other remedial action as is appro-
3 priate.”;

4 (B) in paragraph (5)—

5 (i) by inserting “, subject to para-
6 graphs (10) through (12),” after “in an
7 amount”;

8 (ii) by striking “\$100 and not more
9 than \$1,000” and inserting “\$1,000 and
10 not more than \$25,000”;

11 (iii) by striking “the size of the busi-
12 ness of the employer being charged, the
13 good faith of the employer” and inserting
14 “the good faith of the employer being
15 charged”; and

16 (iv) by adding at the end the fol-
17 lowing: “Failure by a person or entity to
18 utilize the employment eligibility
19 verification system as required by law, or
20 providing information to the system that
21 the person or entity knows or reasonably
22 believes to be false, shall be treated as a
23 violation of subsection (a)(1)(A).”; and

24 (C) by adding at the end the following:

1 “(10) EXEMPTION FROM PENALTY.—In the
2 case of the imposition of a civil penalty under para-
3 graph (4)(A) with respect to a violation of para-
4 graph (1)(A) or (2) of subsection (a) for hiring, con-
5 tinuation of employment, recruitment, or referral by
6 a person or entity and, in the case of the imposition
7 of a civil penalty under paragraph (5) for a violation
8 of subsection (a)(1)(B) for hiring, recruitment, or
9 referral by a person or entity, the penalty otherwise
10 imposed may be waived or reduced if the violator es-
11 tablishes that the violator acted in good faith.

12 “(11) AUTHORITY TO DEBAR EMPLOYERS FOR
13 CERTAIN VIOLATIONS.—

14 “(A) IN GENERAL.—If a person or entity
15 is determined by the Secretary of Homeland Se-
16 curity to be a repeat violator of paragraph
17 (1)(A) or (2) of subsection (a), or is convicted
18 of a crime under this section, such person or
19 entity may be considered for debarment from
20 the receipt of Federal contracts, grants, or co-
21 operative agreements in accordance with the de-
22 barment standards and pursuant to the debar-
23 ment procedures set forth in the Federal Acqui-
24 sition Regulation.

1 “(B) DOES NOT HAVE CONTRACT, GRANT,
2 AGREEMENT.—If the Secretary of Homeland
3 Security or the Attorney General wishes to have
4 a person or entity considered for debarment in
5 accordance with this paragraph, and such a
6 person or entity does not hold a Federal con-
7 tract, grant or cooperative agreement, the Sec-
8 retary or the Attorney General shall refer the
9 matter to the Administrator of General Services
10 to determine whether to list the person or entity
11 on the List of Parties Excluded from Federal
12 Procurement, and if so, for what duration and
13 under what scope.

14 “(C) HAS CONTRACT, GRANT, AGREE-
15 MENT.—If the Secretary of Homeland Security
16 or the Attorney General wishes to have a per-
17 son or entity considered for debarment in ac-
18 cordance with this paragraph, and such person
19 or entity holds a Federal contract, grant or co-
20 operative agreement, the Secretary or the At-
21 torney General shall advise all agencies or de-
22 partments holding a contract, grant, or cooper-
23 ative agreement with the person or entity of the
24 Government’s interest in having the person or
25 entity considered for debarment, and after solic-

1 iting and considering the views of all such agen-
2 cies and departments, the Secretary or the At-
3 torney General may waive the operation of this
4 paragraph or refer the matter to any appro-
5 priate lead agency to determine whether to list
6 the person or entity on the List of Parties Ex-
7 cluded from Federal Procurement, and if so, for
8 what duration and under what scope.

9 “(D) REVIEW.—Any decision to debar a
10 person or entity under in accordance with this
11 paragraph shall be reviewable pursuant to part
12 9.4 of the Federal Acquisition Regulation.”;
13 and

14 (2) in subsection (f)—

15 (A) by amending paragraph (1) to read as
16 follows:

17 “(1) CRIMINAL PENALTY.—Any person or enti-
18 ty which engages in a pattern or practice of viola-
19 tions of subsection (a)(1) or (2) shall be fined not
20 more than \$15,000 for each unauthorized alien with
21 respect to which such a violation occurs, imprisoned
22 for not less than 1 year and not more than 10 years,
23 or both, notwithstanding the provisions of any other
24 Federal law relating to fine levels.”; and

1 (B) in paragraph (2), by striking “Attor-
2 ney General” each place it appears and insert-
3 ing “Secretary of Homeland Security”.

4 **SEC. 205. PREEMPTION; LIABILITY.**

5 Section 402 of the Illegal Immigration Reform and
6 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
7 note), as amended by this title, is further amended by add-
8 ing at the end the following:

9 “(h) LIMITATION ON STATE AUTHORITY.—

10 “(1) PREEMPTION.—A State or local govern-
11 ment may not prohibit a person or other entity from
12 verifying the employment authorization of new hires
13 or current employees through E-Verify.

14 “(2) LIABILITY.—A person or other entity that
15 participates in E-Verify may not be held liable under
16 any Federal, State, or local law for any employment-
17 related action taken with respect to the wrongful
18 termination of an individual in good faith reliance on
19 information provided through E-Verify.”.

20 **SEC. 206. EXPANDED USE OF E-VERIFY.**

21 Section 403(a)(3)(A) of the Illegal Immigration Re-
22 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
23 1324a note) is amended to read as follows:

24 “(A) IN GENERAL.—

1 “(i) BEFORE HIRING.—The person or
2 other entity may verify the employment eli-
3 gibility of an individual through E-Verify
4 before the individual is hired, recruited, or
5 referred if the individual consents to such
6 verification. If an employer receives a ten-
7 tative nonconfirmation for an individual,
8 the employer shall comply with procedures
9 prescribed by the Secretary of Homeland
10 Security, including—

11 “(I) providing the individual em-
12 ployees with private, written notifica-
13 tion of the finding and written refer-
14 ral instructions;

15 “(II) allowing the individual to
16 contest the finding; and

17 “(III) not taking adverse action
18 against the individual if the individual
19 chooses to contest the finding.

20 “(ii) AFTER EMPLOYMENT OFFER.—
21 The person or other entity shall verify the
22 employment eligibility of an individual
23 through E-Verify not later than 3 days
24 after the date of the hiring, recruitment, or
25 referral, as the case may be.

1 “(iii) EXISTING EMPLOYEES.—Not
2 later than 3 years after the date of the en-
3 actment of the Accountability Through
4 Electronic Verification Act, the Secretary
5 shall require all employers to use E-Verify
6 to verify the identity and employment eligi-
7 bility of any individual who has not been
8 previously verified by the employer through
9 E-Verify.”.

10 **SEC. 207. REVERIFICATION.**

11 Section 403(a) of the Illegal Immigration Reform and
12 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
13 note), as amended by section 206, is further amended by
14 adding at the end the following:

15 “(5) REVERIFICATION.—Each person or other
16 entity participating in E-Verify shall use the E-
17 Verify confirmation system to reverify the work au-
18 thorization of any individual not later than 3 days
19 after the date on which such individual’s employ-
20 ment authorization is scheduled to expire (as indi-
21 cated by the Secretary or the documents provided to
22 the employer pursuant to section 274A(b) of the Im-
23 migration and Nationality Act (8 U.S.C. 1324a(b))),
24 in accordance with the procedures set forth in this
25 subsection and section 402.”.

1 **SEC. 208. HOLDING EMPLOYERS ACCOUNTABLE.**

2 (a) CONSEQUENCES OF NONCONFIRMATION.—Sec-
3 tion 403(a)(4)(C) of the Illegal Immigration Reform and
4 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
5 note) is amended to read as follows:

6 “(C) CONSEQUENCES OF NONCONFIRMA-
7 TION.—

8 “(i) TERMINATION AND NOTIFICA-
9 TION.—If the person or other entity re-
10 ceives a final nonconfirmation regarding an
11 individual, the employer shall imme-
12 diately—

13 “(I) terminate the employment,
14 recruitment, or referral of the indi-
15 vidual; and

16 “(II) submit to the Secretary any
17 information relating to the individual
18 that the Secretary determines would
19 assist the Secretary in enforcing or
20 administering United States immigra-
21 tion laws.

22 “(ii) CONSEQUENCE OF CONTINUED
23 EMPLOYMENT.—If the person or other en-
24 tity continues to employ, recruit, or refer
25 the individual after receiving final noncon-
26 firmation, a rebuttable presumption is cre-

1 ated that the employer has violated section
2 274A of the Immigration and Nationality
3 Act (8 U.S.C. 1324a).”.

4 (b) INTERAGENCY NONCONFIRMATION REPORT.—
5 Section 405 of the Illegal Immigration Reform and Immi-
6 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)
7 is amended by adding at the end the following:

8 “(c) INTERAGENCY NONCONFIRMATION REPORT.—

9 “(1) IN GENERAL.—The Director of U.S. Citi-
10 zenship and Immigration Services shall submit a
11 weekly report to the Assistant Secretary of Immigra-
12 tion and Customs Enforcement that includes, for
13 each individual who receives final nonconfirmation
14 through E-Verify—

15 “(A) the name of such individual;

16 “(B) his or her Social Security number or
17 alien file number;

18 “(C) the name and contact information for
19 his or her current employer; and

20 “(D) any other critical information that
21 the Assistant Secretary determines to be appro-
22 priate.

23 “(2) USE OF WEEKLY REPORT.—The Secretary
24 of Homeland Security shall use information provided

1 under paragraph (1) to enforce compliance of the
2 United States immigration laws.”.

3 **SEC. 209. INFORMATION SHARING.**

4 The Commissioner of Social Security, the Secretary
5 of Homeland Security, and the Secretary of the Treasury
6 shall jointly establish a program to share information
7 among such agencies that may or could lead to the identi-
8 fication of unauthorized aliens (as defined under section
9 274A(h)(3) of the Immigration and Nationality Act (8
10 U.S.C. 1324a(h)(3)), including no-match letters and any
11 information in the earnings suspense file. Nothing in the
12 preceding sentence shall be construed to permit or allow
13 any department, bureau, or other agency of the United
14 States Government to utilize any information, data base,
15 or other records assembled under the preceding sentence
16 for any purpose other than as provided for under the pre-
17 ceding sentence.

18 **SEC. 210. FORM I-9 PROCESS.**

19 Not later than 9 months after date of the enactment
20 of this Act, the Secretary of Homeland Security shall sub-
21 mit a report to Congress that contains recommendations
22 for—

23 (1) modifying and simplifying the process by
24 which employers are required to complete and retain
25 a Form I-9 for each employee pursuant to section

1 274A of the Immigration and Nationality Act (8
2 U.S.C. 1324a); and

3 (2) eliminating the process described in para-
4 graph (1).

5 **SEC. 211. ALGORITHM.**

6 Section 404(d) of the Illegal Immigration Reform and
7 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
8 note) is amended to read as follows:

9 “(d) DESIGN AND OPERATION OF SYSTEM.—E-
10 Verify shall be designed and operated—

11 “(1) to maximize its reliability and ease of use
12 by employers;

13 “(2) to insulate and protect the privacy and se-
14 curity of the underlying information;

15 “(3) to maintain appropriate administrative,
16 technical, and physical safeguards to prevent unau-
17 thorized disclosure of personal information;

18 “(4) to respond accurately to all inquiries made
19 by employers on whether individuals are authorized
20 to be employed;

21 “(5) to register any time when E-Verify is un-
22 able to receive inquiries;

23 “(6) to allow for auditing use of the system to
24 detect fraud and identify theft;

1 “(7) to preserve the security of the information
2 in all of the system by—

3 “(A) developing and using algorithms to
4 detect potential identity theft, such as multiple
5 uses of the same identifying information or doc-
6 uments;

7 “(B) developing and using algorithms to
8 detect misuse of the system by employers and
9 employees;

10 “(C) developing capabilities to detect
11 anomalies in the use of the system that may in-
12 dicate potential fraud or misuse of the system;
13 and

14 “(D) auditing documents and information
15 submitted by potential employees to employers,
16 including authority to conduct interviews with
17 employers and employees;

18 “(8) to confirm identity and work authorization
19 through verification of records maintained by the
20 Secretary, other Federal departments, States, the
21 Commonwealth of the Northern Mariana Islands, or
22 an outlying possession of the United States, as de-
23 termined necessary by the Secretary, including—

24 “(A) records maintained by the Social Se-
25 curity Administration;

1 “(B) birth and death records maintained
2 by vital statistics agencies of any State or other
3 jurisdiction in the United States;

4 “(C) passport and visa records (including
5 photographs) maintained by the Department of
6 State; and

7 “(D) State driver’s license or identity card
8 information (including photographs) maintained
9 by State department of motor vehicles;

10 “(9) to electronically confirm the issuance of
11 the employment authorization or identity document;
12 and

13 “(10) to display the digital photograph that the
14 issuer placed on the document so that the employer
15 can compare the photograph displayed to the photo-
16 graph on the document presented by the employee
17 or, in exceptional cases, if a photograph is not avail-
18 able from the issuer, to provide for a temporary al-
19 ternative procedure, specified by the Secretary, for
20 confirming the authenticity of the document.”.

21 **SEC. 212. IDENTITY THEFT.**

22 Section 1028 of title 18, United States Code, is
23 amended—

1 (1) in subsection (a)(7), by striking “of another
2 person” and inserting “that is not his or her own”;
3 and

4 (2) in subsection (b)(3)—

5 (A) in subparagraph (B), by striking “or”
6 at the end;

7 (B) in subparagraph (C), by adding “or”
8 at the end; and

9 (C) by adding at the end the following:

10 “(D) to facilitate or assist in harboring or
11 hiring unauthorized workers in violation of sec-
12 tion 274, 274A, or 274C of the Immigration
13 and Nationality Act (8 U.S.C. 1324, 1324a,
14 and 1324c).”.

○