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**SFA****BILL ANALYSIS**

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Senate Bill 931 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Alan Sanborn  
Committee: Transportation and Tourism

Date Completed: 2-8-02

### **RATIONALE**

The terrorist acts of September 11, 2001, prompted government and law enforcement officials to wonder how atrocities that required years of elaborate planning and coordination could have gone undetected. When it was revealed that some of the terrorists were in the country illegally, Michigan's policy on not prohibiting illegal aliens from owning State driver's licenses and ID cards came under scrutiny.

The policy had been examined previously. In 1995, Richard Austin, then-Secretary of State, had requested an opinion from Frank Kelley, then-Attorney General, asking whether the Department of State could refuse a driver's license to an otherwise qualified person solely because that person was an illegal alien. Attorney General Kelley opined that immigration was a Federal, not a State issue, and that Michigan law only prohibited issuing driver's licenses to *nonresidents*, who do not necessarily include illegal aliens. (Then, as now, the Michigan Vehicle Code defines "resident" as a person who resides in a settled or permanent home with the intention of remaining in the State; a person who has obtained employment in Michigan is presumed to have the intention of remaining in Michigan.) In Opinion No. 6883 of 1995, Kelley wrote: "In summary, neither federal nor Michigan statutes preclude an illegal alien from establishing residence in Michigan. The courts have consistently ruled that illegal aliens, who are persons protected from arbitrary state action by the Equal Protection Clause of the Fourteenth Amendment, may meet state residency standards."

Because, presumably, employers, airline security personnel, and peace officers sometimes assume that ownership of a State

ID card implies legal residence, some people believe that anyone in the country illegally should be prohibited from obtaining an official State identification card.

### **CONTENT**

The bill would amend Public Act 222 of 1972, which provides for the issuance and regulation of an official State personal identification card, to prohibit the Secretary of State from issuing an official ID card to people unlawfully living in the United States.

Under the Act, State residents may apply to the Department of State for an official ID card. The bill would define "resident" as "a person who resides in a settled or permanent home or domicile with the intention of remaining in this state". A person who obtained employment in the State would be presumed to have the intention of remaining in the State, and a U.S. citizen or lawful alien would be presumed to be a resident if he or she had resided in the State for at least 30 days.

Currently, upon application, applicants must supply a birth certificate attesting to their age, or other sufficient documents or identification as the Secretary of State may require. Under the bill, if the Department had reasonable cause to believe that an ID card application contained information that an applicant was an illegal alien, the Department could report that information to an appropriate Federal agency.

The Act requires that an original or renewal State ID card expire on the birthday of the card holder in the fourth year following the date of issuance. Under the bill, the card would expire on that date or on the date the

card holder's presence in the United States was no longer lawful, whichever date occurred first.

The bill is tie-barred to House Bill 5497, which would prohibit the Secretary of State from issuing a driver's license to an illegal alien.

MCL 28.291-28.292

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Investigations of the terrorists who hijacked planes on September 11 and who killed approximately 3,000 people revealed that four of the 19 had illegally obtained Virginia driver's licenses. At least one of the four was in the country on an expired visa; when he was stopped by police on September 9, he showed a valid driver's license and was allowed to proceed. Because State ID cards open the same doors as driver's licenses do—those to credit cards, social services, and air travel—it endangers the State and country to continue offering cards to illegal aliens. If they are in the country illegally, they should not possess documentation that implies legal status.

### **Opposing Argument**

Denying illegal aliens State ID cards would punish migrant workers who are in the country to survive, not to commit acts of violence. According to an article in the *Detroit Free Press* (1-27-02), between 3,000 and 4,000 migrant workers are in Michigan at any time. Denying them a State ID would make it very difficult for them to open bank accounts, enroll their children in school, or even see a doctor.

The bill would affect not only migrant workers who travel in and out of the United States, but also refugees who intend to stay in Michigan. Denying refugees ID cards would likely impair their ability to obtain a job, thus rendering them dependent on public assistance or charity.

### **Opposing Argument**

As far as it is discernable, most of the September 11 terrorists who had obtained

driver's licenses were in the country legally, paid someone for a fraudulent commercial driver's license, obtained a duplicate license, or purchased counterfeit residency papers and then applied for a license. The bill's provisions, had they been in effect, would not have prevented any of the September 11 terrorists from obtaining licenses or State IDs. Rather, the bill seems to suggest that an aspiring terrorist/illegal immigrant would show proof of an expired visa at the Secretary of State's counter, or that a terrorist would produce fake identity documents of such poor quality that a State Department worker would alerted.

In fact, determining a person's immigration status can be a difficult undertaking. Congress creates new visa categories to protect certain types of immigrants, and many people are without official standing as the Immigration and Naturalization Service determines their status. Thus, while these immigrants are undocumented, they are not in the country illegally.

The bill would require the Secretary of State workers to do the work of the Federal government, as past Attorney General Frank Kelley determined; would not stem the blackmarket demand for forged documents; and would harm migrant workers and refugees who are in the country looking for work.

**Response:** The safety of this country and its citizens is of utmost importance. Failing to confer legal status, or implied legal status, on any person in the country illegally would hardly be a violation of human rights.

Legislative Analyst: Claire Layman

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jessica Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.