

## HOUSE BILL No. 2921

By Committee on Federal and State Affairs

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9 AN ACT creating the Kansas employment verification act; amending  
10 K.S.A. 19-101a, 21-3830 and 21-4018 and repealing the existing  
11 sections.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. Sections 1 through 5, inclusive, and amendments  
15 thereto, shall be known and may be cited as the Kansas employment  
16 verification act.

17 New Sec. 2. As used in this act:

18 (a) "Employee" means any person allowed or permitted to work by  
19 an employer. For purposes of this act, the term "employee" shall not  
20 include:

21 (1) Any person hired before November 7, 1986, and has been con-  
22 tinuously employed by the same employer;

23 (2) any person providing domestic services in a private household that  
24 are sporadic, irregular or intermittent;

25 (3) any person providing services for the employer as an independent  
26 contractor; and

27 (4) any person providing services for the employer, under a contract,  
28 subcontract or exchange entered into after November 6, 1986.

29 (b) "Employer" means any person employing or seeking to employ  
30 any person for hire.

31 (c) "Social security number verification service" or "SSNVS" means  
32 the electronic verification of social security numbers operated by the  
33 United States social security administration.

34 New Sec. 3. (a) All employers shall verify the identity and employ-  
35 ment eligibility of all persons hired by completing and retaining pursuant  
36 to this section a federal employment eligibility verification, form I-9 for  
37 each employee.

38 (b) Employers shall, to the extent not inconsistent with federal laws  
39 and regulations:

40 (1) Ensure that each employee completes section 1 of the federal  
41 employment eligibility verification, form I-9 when the employee starts  
42 work;

43 (2) review documents establishing each employee's identity and eli-

- 1 gibility to work to ensure that they reasonably appear on their face:
- 2 (A) To be genuine; and
- 3 (B) to relate to the individual presenting the documents;
- 4 (3) complete section 2 of the federal employment eligibility verifi-
- 5 cation, form I-9;
- 6 (4) complete section 3, if and when applicable, of the federal em-
- 7 ployment eligibility verification, form I-9;
- 8 (5) retain the federal employment eligibility verification, form I-9 for
- 9 three years after the date the person began work or one year after the
- 10 person's employment is terminated, whichever is later; and
- 11 (6) make the federal employment eligibility verification, form I-9
- 12 available for inspection by state or federal officials upon request with
- 13 three days notice.
- 14 (c) The department of labor shall make the federal employment eli-
- 15 gibility verification, form I-9 available to all employers.
- 16 (d) No action relating in any way to the employment of an illegal alien
- 17 shall be brought by any person, city, county or state official against any
- 18 employer who complies with the provisions of subsections (a) and (b), or
- 19 participates in e-verify or utilizes SSNVS.
- 20 (e) In the event that the federal employment eligibility verification,
- 21 form I-9 is amended or replaced after the enactment of this section, an
- 22 employer shall be considered in compliance with the provisions of sub-
- 23 sections (a) and (b) if such employer completes and maintains the then
- 24 current federal employment eligibility form consistent with all relevant
- 25 federal laws and regulations.
- 26 New Sec. 4. (a) Exploitation of an illegal alien is knowingly employ-
- 27 ing an illegal alien in violation of K.S.A. 21-4409, and amendments
- 28 thereto, and subjecting them to working conditions in violation of the
- 29 minimum wage and maximum hours law, K.S.A. 44-1202 et seq., and
- 30 amendments thereto.
- 31 (b) Violation of this section is a severity level 8 nonperson felony.
- 32 (c) For purposes of this section, "illegal alien" means any person not
- 33 a citizen of the United States:
- 34 (A) Who has entered the United States in violation of the federal
- 35 immigration and naturalization act or regulations issued thereunder;
- 36 (B) who has legally entered, but without the rights to be employed
- 37 in the United States; or
- 38 (C) who has legally entered subject to a time limit, but has remained
- 39 illegally after the expiration of such time limit.
- 40 The term "illegal alien" shall not mean any person who currently has
- 41 the legal right to remain in the United States and to be employed in the
- 42 United States even though such person originally entered the United
- 43 States in violation of the federal immigration and naturalization act or

1 regulations issued thereunder and is not a citizen of the United States.

2 New Sec. 5. No city organized under the laws of the state of Kansas  
3 may enact any ordinance or resolution which creates any additional  
4 requirements or authorizes any penalty not articulated in sections 1  
5 through 4, and amendments thereto.

6 Sec. 6. K.S.A. 19-101a is hereby amended to read as follows: 19-  
7 101a. (a) The board of county commissioners may transact all county  
8 business and perform all powers of local legislation and administration it  
9 deems appropriate, subject only to the following limitations, restrictions  
10 or prohibitions:

11 (1) Counties shall be subject to all acts of the legislature which apply  
12 uniformly to all counties.

13 (2) Counties may not affect the courts located therein.

14 (3) Counties shall be subject to acts of the legislature prescribing  
15 limits of indebtedness.

16 (4) In the exercise of powers of local legislation and administration  
17 authorized under provisions of this section, the home rule power con-  
18 ferred on cities to determine their local affairs and government shall not  
19 be superseded or impaired without the consent of the governing body of  
20 each city within a county which may be affected.

21 (5) Counties may not legislate on social welfare administered under  
22 state law enacted pursuant to or in conformity with public law No. 271—  
23 74th congress, or amendments thereof.

24 (6) Counties shall be subject to all acts of the legislature concerning  
25 elections, election commissioners and officers and their duties as such  
26 officers and the election of county officers.

27 (7) Counties shall be subject to the limitations and prohibitions im-  
28 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
29 prescribing limitations upon the levy of retailers' sales taxes by counties.

30 (8) Counties may not exempt from or effect changes in statutes made  
31 nonuniform in application solely by reason of authorizing exceptions for  
32 counties having adopted a charter for county government.

33 (9) No county may levy ad valorem taxes under the authority of this  
34 section upon real property located within any redevelopment project area  
35 established under the authority of K.S.A. 12-1772, and amendments  
36 thereto, unless the resolution authorizing the same specifically authorized  
37 a portion of the proceeds of such levy to be used to pay the principal of  
38 and interest upon bonds issued by a city under the authority of K.S.A.  
39 12-1774, and amendments thereto.

40 (10) Counties shall have no power under this section to exempt from  
41 any statute authorizing or requiring the levy of taxes and providing sub-  
42 stitute and additional provisions on the same subject, unless the resolution  
43 authorizing the same specifically provides for a portion of the proceeds

- 1 of such levy to be used to pay a portion of the principal and interest on  
2 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
3 ments thereto.
- 4 (11) Counties may not exempt from or effect changes in the provi-  
5 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 6 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
7 through 12-1,109, and amendments thereto, counties may not levy and  
8 collect taxes on incomes from whatever source derived.
- 9 (13) Counties may not exempt from or effect changes in K.S.A. 19-  
10 430, and amendments thereto.
- 11 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
12 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 13 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
14 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 15 (16) Counties may not exempt from or effect changes in the provi-  
16 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
17 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
18 through 12-1270 and 12-1276, and amendments thereto.
- 19 (17) Counties may not exempt from or effect changes in the provi-  
20 sions of K.S.A. 19-211, and amendments thereto.
- 21 (18) Counties may not exempt from or effect changes in the provi-  
22 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 23 (19) Counties may not regulate the production or drilling of any oil  
24 or gas well in any manner which would result in the duplication of reg-  
25 ulation by the state corporation commission and the Kansas department  
26 of health and environment pursuant to chapter 55 and chapter 65 of the  
27 Kansas Statutes Annotated, and amendments thereto, and any rules and  
28 regulations adopted pursuant thereto. Counties may not require any li-  
29 cense or permit for the drilling or production of oil and gas wells. Counties  
30 may not impose any fee or charge for the drilling or production of any  
31 oil or gas well.
- 32 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
33 41a04, and amendments thereto.
- 34 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
35 1611, and amendments thereto.
- 36 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
37 1494, and amendments thereto.
- 38 (23) Counties may not exempt from or effect changes in subsection  
39 (b) of K.S.A. 19-202, and amendments thereto.
- 40 (24) Counties may not exempt from or effect changes in subsection  
41 (b) of K.S.A. 19-204, and amendments thereto.
- 42 (25) Counties may not levy or impose an excise, severance or any  
43 other tax in the nature of an excise tax upon the physical severance and

- 1 production of any mineral or other material from the earth or water.
- 2 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
3 2017 or 79-2101, and amendments thereto.
- 4 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
5 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
6 1,178 through 65-1,199, and amendments thereto.
- 7 (28) Counties may not exempt from or effect changes in K.S.A. 2007  
8 Supp. 80-121, and amendments thereto.
- 9 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
10 228, and amendments thereto.
- 11 (30) Counties may not exempt from or effect changes in the wireless  
12 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of  
13 K.S.A. 12-5301 through 12-5308, and amendments thereto.
- 14 (31) Counties may not exempt from or effect changes in K.S.A. 2007  
15 Supp. 26-601, and amendments thereto.
- 16 (32) (A) Counties may not exempt from or effect changes in the Kan-  
17 sas liquor control act except as provided by paragraph (B).
- 18 (B) Counties may adopt resolutions which are not in conflict with the  
19 Kansas liquor control act.
- 20 (33) (A) Counties may not exempt from or effect changes in the Kan-  
21 sas cereal malt beverage act except as provided by paragraph (B).
- 22 (B) Counties may adopt resolutions which are not in conflict with the  
23 Kansas cereal malt beverage act.
- 24 (34) Counties may not exempt from or effect changes in the Kansas  
25 lottery act.
- 26 (35) Counties may not exempt from or effect changes in the Kansas  
27 expanded lottery act.
- 28 (36) *Counties may not exempt from or effect changes in the Kansas*  
29 *employment verification act.*
- 30 (b) Counties shall apply the powers of local legislation granted in  
31 subsection (a) by resolution of the board of county commissioners. If no  
32 statutory authority exists for such local legislation other than that set forth  
33 in subsection (a) and the local legislation proposed under the authority  
34 of such subsection is not contrary to any act of the legislature, such local  
35 legislation shall become effective upon passage of a resolution of the  
36 board and publication in the official county newspaper. If the legislation  
37 proposed by the board under authority of subsection (a) is contrary to an  
38 act of the legislature which is applicable to the particular county but not  
39 uniformly applicable to all counties, such legislation shall become effec-  
40 tive by passage of a charter resolution in the manner provided in K.S.A.  
41 19-101b, and amendments thereto.
- 42 (c) Any resolution adopted by a county which conflicts with the re-  
43 strictions in subsection (a) is null and void.

1     Sec. 7. K.S.A. 21-3830 is hereby amended to read as follows: 21-  
2 3830. (a) Dealing in false identification documents is reproducing, man-  
3 ufacturing, selling or offering for sale any identification document which:  
4     (1) Simulates, purports to be or is designed so as to cause others  
5 reasonably to believe it to be an identification document; and  
6     (2) bears a fictitious name or other false information.  
7     (b) As used in this section, “identification document” means any card,  
8 certificate or document or banking instrument including, but not limited  
9 to, credit or debit card, which identifies or purports to identify the bearer  
10 of such document, whether or not intended for use as identification, and  
11 includes, but is not limited to, documents purporting to be drivers’ li-  
12 censes, nondrivers’ identification cards, certified copies of birth, death,  
13 marriage and divorce certificates, social security cards and employee iden-  
14 tification cards *or other document required for completion of the federal*  
15 *employment eligibility verification, form I-9.*  
16     (c) ~~Dealing in false identification documents is a severity level 8, non-~~  
17 ~~person felony. Except as provided further, dealing in false identification~~  
18 ~~documents is a severity level 8, nonperson felony. If the identification~~  
19 ~~documents in question are used by an illegal alien for the purposes of~~  
20 ~~obtaining employment, then dealing in false documents is a severity level~~  
21 ~~5, nonperson felony.~~  
22     (d) Vital records identity fraud related to birth, death, marriage and  
23 divorce certificates is:  
24     (1) Willfully and knowingly supplying false information intending that  
25 the information be used to obtain a certified copy of a vital record;  
26     (2) making, counterfeiting, altering, amending or mutilating any cer-  
27 tified copy of a vital record:  
28         (A) Without lawful authority; and  
29         (B) with the intent to deceive; or  
30     (3) willfully and knowingly obtaining, possessing, using, selling or fur-  
31 nishing or attempting to obtain, possess or furnish to another for any  
32 purpose of deception a certified copy of a vital record.  
33     (e) Vital records identity fraud is a severity level 8, nonperson felony.  
34     (f) The prohibitions in subsections (a) and (b) do not apply to:  
35     (1) A person less than 21 years of age who uses the identification  
36 document of another person to acquire an alcoholic beverage, as defined  
37 in K.S.A. 8-1599, and amendments thereto;  
38     (2) a person less than 18 years of age who uses the identification  
39 documents of another person to acquire:  
40         (A) Cigarettes or tobacco products, as defined in K.S.A. 79-3301, and  
41 amendments thereto;  
42         (B) a periodical, videotape or other communication medium that con-  
43 tains or depicts nudity;

1 (C) admittance to a performance, live or film, that prohibits the at-  
 2 tendance of the person based on age; or  
 3 (D) an item that is prohibited by law for use or consumption by such  
 4 person.  
 5 (g) *For purposes of this section, “illegal alien” means any person not*  
 6 *a citizen of the United States:*  
 7 (A) *Who has entered the United States in violation of the federal im-*  
 8 *migration and naturalization act or regulations issued thereunder;*  
 9 (B) *who has legally entered, but without the rights to be employed in*  
 10 *the United States; or*  
 11 (C) *who has legally entered subject to a time limit, but has remained*  
 12 *illegally after the expiration of such time limit.*  
 13 *The term “illegal alien” shall not mean any person who currently has*  
 14 *the legal right to remain in the United States and to be employed in the*  
 15 *United States even though such person originally entered the United*  
 16 *States in violation of the federal immigration and naturalization act or*  
 17 *regulations issued thereunder and is not a citizen of the United States.*  
 18 ~~(g)~~ (h) This section shall be part of and supplemental to the Kansas  
 19 criminal code.  
 20 Sec. 8. K.S.A. 21-4018 is hereby amended to read as follows: 21-  
 21 4018. (a) Identity theft is knowingly and with intent to defraud for any  
 22 benefit, obtaining, possessing, transferring, using or attempting to obtain,  
 23 possess, transfer or use, one or more identification documents or personal  
 24 identification number of another person other than that issued lawfully  
 25 for the use of the possessor.  
 26 (b) “Identification documents” has the meaning provided in K.S.A.  
 27 21-3830, and amendments thereto.  
 28 (c) Except as provided further, identity theft is a severity level 8,  
 29 nonperson felony. If the monetary loss to the victim or victims is more  
 30 than \$100,000, identity theft is a severity level 5, nonperson felony.  
 31 (d) Identity fraud is:  
 32 (1) Willfully and knowingly supplying false information intending that  
 33 the information be used to obtain an identification document;  
 34 (2) making, counterfeiting, altering, amending or mutilating any iden-  
 35 tification document:  
 36 (A) Without lawful authority; and  
 37 (B) with the intent to deceive; or  
 38 (3) willfully and knowingly obtaining, possessing, using, selling or fur-  
 39 nishing or attempting to obtain, possess or furnish to another for any  
 40 purpose of deception an identification document.  
 41 ~~(e) Identity fraud is a severity level 8, nonperson felony. Except as~~  
 42 ~~provided further, identity fraud is a severity level 8, nonperson felony. If~~  
 43 ~~the documents obtained or supplied are used for the purpose of obtaining~~

- 1 *employment, or if the possessor of such documents is an illegal alien, then*  
2 *identity fraud is a severity level 5, nonperson felony.*
- 3 *(f) For purposes of this section, "illegal alien" means any person not*  
4 *a citizen of the United States:*
- 5 *(A) Who has entered the United States in violation of the federal im-*  
6 *migration and naturalization act or regulations issued thereunder;*
- 7 *(B) who has legally entered, but without the rights to be employed in*  
8 *the United States; or*
- 9 *(C) who has legally entered subject to a time limit, but has remained*  
10 *illegally after the expiration of such time limit.*
- 11 *The term "illegal alien" shall not mean any person who currently has*  
12 *the legal right to remain in the United States and to be employed in the*  
13 *United States even though such person originally entered the United*  
14 *States in violation of the federal immigration and naturalization act or*  
15 *regulations issued thereunder and is not a citizen of the United States.*
- 16 ~~(f)~~ *(g) This section shall be part of and supplemental to the Kansas*  
17 *criminal code.*
- 18 *Sec. 9. K.S.A. 19-101a, 21-3830 and 21-4018 are hereby repealed.*
- 19 *Sec. 10. This act shall take effect and be in force from and after its*  
20 *publication in the statute book.*