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

HISPANIC INTEREST COALITION OF ALABAMA; AIDS ACTION COALITION; HUNTSVILLE INTERNATIONAL HELP CENTER; INTERPRETERS AND TRANSLATORS ASSOCIATION OF ALABAMA;

MORTON, in his official capacity as State Superintendent of Education; FREIDA HILL, in her official capacity as Chancellor of Postsecondary Education; E. CASEY WARDYNSKI, in his official capacity as Superintendent of the Huntsville City School System; JAMIE BLAIR, in his official capacity as Superintendent of the Vestavia Hills City School System; RANDY FULLER, in his official capacity as Superintendent of the Shelby County

been suspended in whole or in part by the federal c

4. HB 56 will deter Alabamian children in immigrant families—including countless U.S. citizens and non-citizens who have permission from the federal government to remain in the United States—from enrolling in public primary and secondary education. *See* Sec. 28. HB 56 will also bar numerous individuals from attending any public college or university in Alabama. *See* Sec. 8. These provisions violate the Equal Protection Clause.

5. HB 56 will subject Alabamians—including countless U.S. citizens and non-citizens who have permission from the federal government to remain in the United States—to criminal penalties and incarceration for innocent daily activities, such as giving a ride to a neighbor, hiring a day laborer, or renting a room to a friend. *See* Secs. 11 & 13. HB 56 also creates an Alabama-specific alien registration scheme and makes it a state crime simply to be in the State of Alabama without lawful status. *See* Sec. 10. These new state criminal provisions are preempted. And in criminalizing the solicitation of work, HB 56 imposes a content-based restriction on speech in violation of the First Amendment.

6. HB 56 will close the courthouse doors to Alabamians—including countless U.S. citizens and non-citizens who have permission from the federal government to remain in the United States—based on their immigration status or the immigration status of those they contract with, thereby depriving such individuals of redress to which they are legally entitled. *See* Sec. 27. These

provisions violate the Due Process Clause and the Contracts Clause, U.S. Const. art I, § 10.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action arises under the U.S. Constitution and laws of the United States, and pursuant to 28 U.S.C. § 1343 because this action seeks to redress the deprivation, under color of state law, of Plaintiffs' civil rights and to secure equitable or other relief for the violation of those rights.

8. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Federal Rule of Civil Procedure Rule 57.

9. Venue is proper in this District and Division under 28 U.S.C. § 1391(b). Defendants are sued in their official capacity. Each Defendant resides within the State of Alabama and two Defendants reside within this Division.

PARTIES

Organizational Plaintiffs

10. Plaintiff **Hispanic Interest Coalition of Alabama** ("HICA") is a non-profit membership organization formed to facilitate the social, civic, and economic integration of Hispanics into Alabama as well as to help Alabamians understand the diverse Latino culture. HICA was founded in 1999 and has grown significantly since that time. Today, HICA provides a wide range of services, including court

advocacy for immigrant survivors of domestic violence, a 24/7 Spanish hotline for immigrant victims of crime, immigration legal services, financial literacy, workforce development, volunteer income tax assistance, English and civics classes, advocacy, community education, and leadership development and training to the host community.

11. HICA has over 50 formal members and provides services to more than 15,000 constituents in any given year. HICA does not inquire into the immigration status of its members or constituents, but it is aware that some of its members and constituents lack immigration status, and some are the parents of children born abroad.

12. If HB 56 is implemented, HICA will be at risk of criminal prosecution for violations of state-created criminal immigration offenses, including encouraging undocumented immigrants to remain in the state. HICA provides

13. HICA will also suffer directly if HB 56 is implemented because HICA is funded by a federal grant to help immigrants apply for T and U visas, which are special visas available to certain immigrant crime victims who assist law enforcement officials in the prosecution of crime. A key part of this program is encouraging immigrant crime victims to assist law enforcement officials in the prosecution of crime. But if HB 56 takes effect, immigrant victims and witnesses (and victims and witnesses related to immigrants) will be deterred from reporting crimes to law enforcement, making it virtually impossible for HICA to meet this program objective.

14. Plaintiff **AIDS Action Coalition** (AAC) was established in 1986 as a

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provides services to its clients without regard to their immigration status. AAC necessarily learns its clients' immigration statuses in the course of registering for

information has overwhelmed the Spanish-speaking outreach worker, requiring a diversion of resources to address HB 56. As such, HB 56 has frustrated AAC's Education and Outreach program in the Spanish-speaking community.

19. Since the passage of HB 56, numerous Hispanic clients have expressed fear of traveling to AAC's clinics. AAC expects that the Hispanic community will be much more reluctant to interact with AAC staff conducting HIV testing in their communities if HB 56 is implemented. The implementation of HB 56 will frustrate AAC's efforts to identify new infections in that community and stop the spread of HIV.

20. Plaintiff **Huntsville International Help Center** ("HIHC") is a

criminal prosecution under the law for transporting undocumented immigrants or encouraging undocumented immigrants to remain in the state.

21. HB 56 has adversely impacted HIHC because it has deterred many of HIHC's all-volunteer staff from working with undocumented immigrants. This directly threatens HIHC's ability to continue its work. Moreover, since the passage of HB 56, HIHC has had great difficulty securing space to hold its meetings and events. Churches and others who normally would provide meeting space are now afraid of being affiliated with the Latino community, which they believe is generally undocumented.

22. Plaintiff **Interpreters and Translators Association of Alabama** ("ITAA") is a professional membership organization of interpreters and translators,

To promote this organizational priority, ITAA conducts trainings to help its members prepare for the certification examination. One such training was held in Birmingham and another is planned for Huntsville. Since HB 56 passed, however, ITAA has had to delay planning such trainings in order to respond to its members' concerns and requests for information on the new law and its consequences for them. ITAA's most recent meeting should have involved planning for interpreter

process, and respect for the human rights of new ary a

35. Members already have told the Joint Board that they have faced additional police scrutiny and questioning since HB 56 was passed. They believe that this additional police scrutiny was based solely on their ethnic appearance and/or English speaking ability. This discriminatory treatment by law enforcement will significantly impede the ability of the Joint Board and SEIU to protect their current members and to organize new members. Some members of SEIU and the Joint Board lack the identity documents approved by HB 56 to establish a presumption of lawful status or do not regularly carry these documents when traveling through the state, and are therefore at risk of lengthy detention and investigation under the new law.

36. SEIU and the Joint Board will also be harmed if HB 56 is implemented because employers in the state will refrain from hiring members and potential members of the Joint Board that they believe look or sound "foreign" based on a fear that they will be subject to increased liability under HB 56. This will have a serious impact on the ability of SEIU and the Joint Board to recruit new members.

37. In addition, SEIU and the Joint Board will be harmed if HB 56 takes effect because of the provision criminalizing the transporting of undocumented immigrants. This provision will have a chilling effect on the Joint embeaionbpr071(e)-1.29412(

will have a more difficult time organizing transportation to these key union activities because people will be afraid to associate with someone whose racial/ethnic appearance will increase the risk that the driver will be stopped for a minor traffic offense, leading to further police scrutiny and possible criminal prosecution under the law.

38. In addition, if HB 56 is implemented, the Joint Board will need to spend significant new time educating members and potential members about the law. This will divert the Joint Board's resources from other core organizational priorities such as organizing new members. The Joint Board joins this lawsuit to preserve its ability to organize new members and to protect the rights and interests of its members and prospective members.

39. Finally, Joint Board members would be harmed if HB 56 takes effect because of its provision barring enforcement of certain contracts. If implemented, this provision would prohibit Joint Board members from enforcing a broad range of contracts from insurance contracts, to marriage contracts, to settlement agreements. In addition, the Joint Board itself could be prohibited from enforcing a wide range of contracts on behalf of its members such as grievance settlements and contractually mandated payments and, as a result, would risk having complaints filed against it with the National Labor Relations Board for failure to properly represent its members.

40. Plaintiff **United Food and Commercial Workers International Union** ("UFCW International") represents more than 1.3 million workers across the United States in various industries, including poultry and meat packing and other food processing; supermarket and other retail; and hospitals, nursing homes, and other healthcare. All workers represented by local unions of the UFCW are

interest in advocating and maintaining discrimination-free workplaces and

endeavor to represent; subjecting members to unlawful questioning, arrest, and detention by state and local law enforcement officers; and chilling freedom of assembly of UFCW-represented workers by deterring their attendance and participation in UFCW activities. Specifically, the UFCW Unions fear that HB 56, including the provision that criminalizes the transportation of undocumented immigrants, will deter employees from attending UFCW activities, from joining in concerted activities with other employees to protect their labor rights, and from soliciting other employees to join the Unions for fear that when engaging in such activities they will be stopped and questioned because they appear to be Latino or are in the company of workers who appear to be Latino.

45. Additionally, as part of their core activities, the UFCW Unions provide lawyers to educate workers about their rights under federal and state employment and labor laws. If HB 56 is implemented, the UFCW Unions will need to divert these resources towards educating members and potential members about the law, to the detriment of this core organizational function. Moreover, they fear that lawyers who perform this educational function will feel pressured by HB 56's provisions to report employees who appear to be Latino to enforcement authorities.

46. Plaintiff **DreamActivist.org** ("DreamActivist") is a multi-cultural, migrant-led membership organization dedicated to passing the federal DREAM

Act. The DREAM Act is a bipartisan congressional bill that would address the situation of young students brought to the United States as children by providing a path to legal status for students who graduate from high school, obtain a GED, enroll in college, or serve in the armed forces. DreamActivist is comprised of students who would be eligible for relief if the DREAM Act passes. DreamActivist has members all over the country, including in Alabama.

47. Some of DreamActivist's Alabama members lack a federal immigration or nonimmigrant visa and would not be able to obtain the identity documents specified by HB 56, such as a driver's license. If HB 56 is implemented, these members will be subject to interrogation and detention by law enforcement officers because they will be unable to provide a document proving lawful status in the United States.

48. In addition, if HB 56 takes effect, members of DreamActivist will be prohibited from attending public post-secondary institutions in Alabama because they do not have lawful permanent residence or a nonimmigrant visa. As a result, these members will be unable to pursue their educational goals and also will be unable to achieve one of the key pieces of DREAM Act eligibility by enrolling in post-secondary school.

49. If HB 56 is implemented, many DreamActivist members will also be at risk of criminal prosecution under various provisions of the law creating new state crimes for seeking work or for lacking a federal alien registration document.

50. In addition, younger members will be afraid to enroll in public elementary or secondary school because they will have to disclose their or their parents' immigration status in order to enroll.

51. Finally, the organization itself will suffer direct harm if HB 56 is implemented because its members will leave the state, fearing prosecution under the law; those members who remain will be too afraid to attend DreamActivist events, fearing that they will be identified as undocumented immigrants by local law enforcement officials who may be present at or near the events.

52. Plaintiff **Greater Birmingham Ministries** ("GBM") is a multi-faith, multi-racial, multi-member organization that provides emergency assistance to low-income families in need while working on public policies that can better the quality of life for all. GBM counts Christian, Muslim, and Jewish faith communities among its members, including the Roman Catholic Diocese of Birmingham and the North Alabama Conference of the United Methodist Church, as well as individual temples, churches, and mosques.

53. GBM's low-income clients include Latino, African, and other immigrant families, including undocumented individuals and school-age children.

GBM has three main program areas: Economic Justice, Direct Services, and Faith & Community. Its Direct Services program provides services in the form of food, clothing, and financial assistance to immigrant and

to register with their child's public school under HB 56. These members fear that their immigration status will be sent to the federal government and lead them to being detained and possibly deported under HB 56.

57. GBM is also concerned that it will soon have to divert organizational and financial resources because immigrants from their congregations are already leaving Alabama due to HB 56. GBM relies on members for volunteers, and if its congregations no longer have as many members, GBM will have to decrease the number of services it provides due to the decreasing volunteer base that GBM draws from.

58. Because GBM is publicly opposed to HB 56, it is likely that member congregations that do not agree with GBM will limit, or cease, their support of GBM, which would also lead to a diversion of resources. In the past, GBM has had to divert resources when it has taken controversial positions that led to various member congregations withdrawing or reducing their support for GBM.

59. Plaintiff **Boat People SOS** ("BPSOS") is a national non-profit Vietnamese-American community-based organization with the mission to "empower, organize, and equip Vietnamese individuals and communities in their pursuit of liberty and dignity." Formed in 1980 to assist Vietnamese refugees and immigrants who were fleeing Vietnam, BPSOS has evolved from performing rescue at sea operations, to asylum work in refugee camps, to community

BPSOS's limited resources from their core organizational priorities of direct services, community development, and organizing.

Individual Plaintiffs

62. Plaintiff

immigration status. In the interim, neither child can obtain an alien registration document or even a state identification card. If HB 56 goes into effect, neither of Plaintiff Webster's sons can attend any public college in Alabama.

66. Plaintiff Webster also fears what will happen to his children at school when he is required [illegible]

73. As a part of her ministry, Plaintiff Long often serves as an interpreter in court proceedings, as well as at medical appointments for members of the community. Plaintiff Long also assists English-language learners with government applications.

74. Plaintiff Long also transports Latino community members to and from church, to doctor's appointments, to court appearances, or other places as a part of her ministry.

75. Plaintiff Long does not ask the immigration status

80. Plaintiff **Christopher Barton Thau** ("Pastor Thau") is a U.S. citizen and has lived in Pelham, Alabama since 1996. He has a wife who is a lawful permanent resident ("LPR"), and a six-year-old child who is attending Alabama public schools.

81. Pastor Thau has been an Associate Pastor of the Pleasant Hill United Methodist Church for two years. Pleasant Hill Church is located in Bessemer,

Alabama, and was founded in 1932. Pastor Thau

84. He also fears that he would be prosecuted for marry

by hosting certain programs, which further affects his child because he will no longer have access to these programs if they are cut due to HB 56.

88. Plaintiff **Ellin Jimmerson** was born in Atmore, Alabama. She lived in Birmingham during her high school and college years, and currently lives in Huntsville, Alabama.

89. Plaintiff Jimmerson was ordained to the gospel ministry by Weatherly Heights Baptist Church in Huntsville. She is Minister to the Community at Weatherly Heights Baptist Church. Her ministry includes making a documentary film about the root causes of unlawful immigration, and in other ways serving the needs of the immigrant community in Huntsville, including those immigrants without lawful status.

90. As a part of her ministry, Plaintiff Jimmerson performs marriages, preaches at various events, and provides spiritual counseling and other services and assistance. Plaintiff Jimmerson routinely provides these services to undocumented immigrants and will continue to do so if HB 56 is implemented. This will put her at risk for criminal prosecution under HB 56's provisions for encouraging undocumented immigrants to remain in the state. Plaintiff Jimmerson believes that if implemented, HB 56 will interfere with her ability to associate with communities in need by criminalizing basic activities of her religious ministry.

91. Plaintiff **Robert Barber** is a resident of Birmingham, Alabama and an active member of the Alabama state bar. He practices law primarily in the areas of employment law, including wage and hour law, as well as immigration and family law matters and general civil litigation. A core part of his practice involves providing for the legal needs of the Latino community in Birmingham. Plaintiff Barber estimates that approximately 95 percent of his Latino clients are currently undocumented. Plaintiff Barber represents these undocumented individuals in applications to regularize their status with the federal government, family law disputes, and suits for lost wages.

92. Because many of his Latino clients do not have cars, Plaintiff Barber routinely drives his clients to court hearings and other legal proceedings.

93. If HB 56 is implemented, Plaintiff Barber will be subject to criminal prosecution for concealing, harboring, or encouraging undocumented immigrants to reside or remain in the state of Alabama. HB 56 will interfere fundamentally with Plaintiff Barber's ability to practice his profession.

94. Since HB 56 was proposed, Plaintiff Barber has already suffered a decrease in his Latino clientele. He is aware that Latinos and immigrants are increasingly afraid to access the courts to protect their rights, and some families are preparing to leave the state if the law takes effect. If the law is implemented,

fulfilling the biblical mandate of hospitality to all people, and advocating for just and compassionate immigration laws and public policy.

98. Plaintiff Upton regularly represents individuals on a range of immigration matters including representing undocumented immigrants who are applying for adjustment of status or family-based immigration visas; former asylum-seekers who have been in the United States for nearly 20 years and qualify for immigration relief; and immigrants applying for visas because they were victims of crimes or domestic violence at the hands of U.S. citizen spouses. Because of the nature of his work, Plaintiff Upton is often aware that the individuals he represents lack valid immigration status.

99. In addition, Plaintiff Upton routinely drives clients to immigration hearings or other related appointments. If HB 56 is implemented, Plaintiff Upton could be criminally prosecuted for harboring or transporting undocumented immigrants or for encouraging them to remain in the state under Section 13 of the law.

100. Finally, Plaintiff Upton regularly enters into retainer agreements with his clients with full knowledge that the client lacks immigration status. HB 56 would make these agreements unenforceable, which would severely undermine his ability to conduct its legal practice within the bounds of professional

responsibility. HB 56 could also impact his malpractice insurance coverage, which requires an enforceable retainer specifying the scope of his representation.

103. Plaintiff Beabtihenrdncatore of hianinr

101. Plaintiff **Jeffrey Allen Beck** is a resident of Guntersville, Alabama. He has owned rental properties throughout Northern Alabama for the past 18 years.

102. The majority of Plaintiff Beck's tenants are immigrants. Beck does not verify or investigate the immigration status of his tenants. He does not intend to change that practice. He has reason to believe that some of his tenants are undocumented. Plaintiff Beck rents accommodations to some individuals who cannot provide a Social Security number with their rental application. In the past, some of Beck's tenants were taken into ICE custody. Beck did not and would not move to evict those residents or their remaining family members from their units and would not do so in the future.

103. Plaintiff Beck believes that hardworking people deserve a place to live regardless of their immigration status. Beck and his business entities enter into rental agreements with p( )1.66312(t)3.97329i2.29412(t605(a)-1.293 L)-4dag.307(n)3.3262(t605

disrupted by the arrest and detention of a substantial share of his tenants if HB 56 goes into effect.

105. If implemented, HB 56 will render Plaintiff Beck's rental agreements with any undocumented person unenforceable. His livelihood depends upon renters being compelled to pay for the accommodations they rent from him.

106.

109. Plaintiff **Esayas Haile** resides in Boaz, Alabama, and is a native of Eritrea. Plaintiff Haile came to the United States as a refugee in 2010. As a refugee, Plaintiff Haile is allowed to remain in the United States, but he is not a lawful permanent resident and does not possess a nonimmigrant visa. Plaintiff Haile is fluent in Tigrina and Amharic, but wishes to learn the English language to ease his transition into the United States. Plaint

public postsecondary institution because he is not a lawful permanent resident or a holder of a nonimmigrant visa.

111. Plaintiff **Jane Doe #1** is a Mexican national who currently lives in Crossville, Alabama, with her husband and two children. Her daughter, who is nine years old, is a U.S. citizen. Her son, who is 17, was born in Mexico and is undocumented.

112. Plaintiff Jane Doe #1 does not have lawful immigration status in this country, although she is currently in the process of getting a visa. In fact, her petition for an Alien Relative Visa (I-130) has been approved, and according to usual federal procedures, she is waiting for a visa to become available.

113. Plaintiff Jane Doe #1 does not have an Alabama driver's license and is not eligible to get one. The only document she possesses that reflects her status is a notice acknowledging that her Alien Relative petition was approved. The notice is a simple piece of paper, not a formal identification, and it does not have any indication of its durational validity. Jane Doe #1 is concerned a police officer

114. If HB 56 is implemented, Jane Doe #1 will be at risk of police interrogation and detention, as well as prosecution under the state alien registration scheme, if she is stopped by police for any reason. As a result, she will reduce her travel in the state—including travel to attend church each week—in order to avoid the possibility of contact with law enforcement.

115. Jane Doe #1 is concerned that if HB 56 is implemented it will tear her family apart. She worries that her husband or son, who are both undocumented, could be identified by police and would be deported under the law. Her nine-year-old daughter, who is a U.S. citizen, is traumatized by what she hears about the new law at school. She has been asking if the family will be arrested by immigration officials or stopped at police checkpoints.

116. Plaintiff **Jane Doe #2** lives in Birmingham, Alabama, and is the single mother of three children. Jane Doe #2 has lived in Alabama for 12 years and considers it her home. She immigrated to the United States from her native country in 1999.

117. Plaintiff Jane Doe #2 currently lacks federal immigration status, but she has applied to the federal government for a U-visa (a form of federal immigration status for crime victims and witnesses that provides a pathway to permanent residence) based on the l gsl9(e)-1.(387d8( )1.66416(p)-5.236(l)-4.59004(9(e)-1.(387

Although the federal government is aware that Jane Doe #2 is undocumented, they have not elected to initiate immigration proceedings against her, and her application for a U-visa is pending.

118. Plaintiff Jane Doe #2 does not have a federal alien registration document; nor does she have any document that can easily establish to Alabama law enforcement officials that her presence in the country is known to the federal government. As a result, if HB 56 is implemented, Jane Doe #2 will be subject to unlawful interrogation and detention by law enforce

122. Plaintiff **Jane Doe #3** is a U.S. citizen who was born and raised in Alabama. She lives in Montgomery, Alabama, with her husband, who is an undocumented immigrant, and their three U.S. citizen children who are all under the age of six.

123. If HB 56 is implemented, Jane Doe #3 will be subject to criminal

including one U.S. citizen child. Jane Doe #4 considers Alabama her home. She lives in a rented trailer home in Pelham with her husband and three children.

127. Jane Doe #4 routinely seeks work cleaning houses even though she does not have work authorization. If implemented, HB 56 will criminalize her work and open her up to prosecution simply for working in order to support her family.

128. If HB 56 takes effect, Jane Doe #4 will be subject to unlawful interrogation and detention by police. There are r

136. If HB 56 is implemented, Jane Doe #5 will curtail her activities

140. Jane Doe #6 is also fearful that her son will be unable to complete school because of HB 56's requirement that the school determine whether he and Jane Doe #6 are undocumented. She will be forced to comply with the registration requirements because obtaining an education is so important to her son and his future. Jane Doe #6 fears, however, that revealing her son's undocumented status to school officials will cause him harm and mistreatment.

141. Jane Doe #6 also worries that under HB 56, her son will be detained because he lacks immigration papers. She believes that he will not be able to care for himself if he is detained or deported to Mexico, a country he does not know and does not consider his home. The only place he considers home is Alabama.

142. Jane Doe #6 supports herself and her family by cleaning houses. She must drive herself to various work sites, and she must also regularly drive her son to school. Because she lacks a driver's license, Jane Doe #6 is fearful that she will be stopped and arrested by the police and put into deportation proceedings. If this happens, she worries that her son will be abandoned and unable to care for himself.

143. Plaintiff **John Doe #1, a minor, by his legal guardian Matt Webster,** is a 16-year old who came to the United States with his younger brother several years ago. His mother passed away when he was 8 or 9 years old, and his elderly grandparents sent him to United States to live with extended family.

144. John Doe #1 learned English and excelled in school, but his younger brother struggled. Plaintiff Matt Webster and his wife, both U.S. citizens, learned of John Doe #1 and his brother's plight, and after becoming acquainted, the boys' extended relatives agreed that Plaintiff Webster and his wife could provide a more stable environment for the boys. Plaintiff Webster and his wife are now in the process of adopting the brothers.

145. John Doe #1 is still without any current immigration status, and he does not have an alien registration card or any form of United States identification.

151. Plaintiff **John Doe #3** is an 18-year-old who has grown up in the United States and considers Alabama his home. John Doe #3 does not have a green card or other lawful status in the United States. He recently graduated with honors from Wetumpka High School and was accepted to three different public universities in Alabama.

152. Because he considers Alabama his home and because his family lives here, John Doe #3 plans to attend college in Alabama. John Doe #3 does not have the funds to enroll in college currently, but he intends to enroll as soon as possible and to study aerospace and robotics technology. If HB 56 is implemented, however, it will prohibit him from enrolling in a public college or university in Alabama and thwart his plans to pursue further education.

153. John Doe #3 has suffered racial profiling in the past by Alabama law enforcement officers. A couple years ago, he was s

154. If HB 56 is implemented, John Doe #3 is afraid that he will be subject to increased racial profiling, discrimination, and arbitrary interrogation and detention by law enforcement based on his Latino appearance. As a result, John Doe #3 will curtail his activities if HB 56 takes effect in order to try to avoid any contact with law enforcement.

155. Plaintiff **John Doe #4** is a resident of Auburn, Alabama, and has lived in Auburn for approximately three years. He is currently enrolled at a community college in Alabama where he is taking classes to prepare for the GED exam, which he hopes to take in August 2011. After passing the GED, John Doe #4 intends to study welding or mechanics at a community college in Alabama in order to better himself.

156. If HB 56 is implemented, it will thwart his educational and professional plans. John Doe #4 will not be able to continue his studies after passing the GED exam because he does not have the documentation required by HB 56 to enroll in any public post-secondary educational institution in Alabama, as he does not have lawful permanent resident status or a non-immigrant visa.

157. John Doe #4 currently rents his apartment. If HB 56 takes effect, John Doe #4 will not be able to rent a home. He fears he will have great difficulty finding any place to rent because he does not have the documents required under

the law to allow a landlord to rent to him, and any landlord would be considered a criminal for renting to him.

158. If HB 56 is implemented, John Doe #4 will be subject to unlawful interrogation and detention by police officers inquiring into his immigration status if he is stopped by police for any reason.

159. John Doe #4 fears detention and deportation under HB 56 because he lacks a federal alien registration document.

160. Plaintiff **John Doe #5** lives in Hoover, Alabama, and has frequently performed day labor work in the nearly nine years since he arrived in the United States. He does not have work authorization from the U.S. government, but he works to sustain himself and to send money to cover basic living expenses for his parents, grandparents, and sister who live in Mexico.

161. While looking for work as a day laborer, John Doe #5 tries to make it obvious to people who are hiring that he is available for work. He may cross a street to approach a car whose driver has indicated they want to hire, and he has stood on sidewalks to seek work from people who drive by in their cars looking to hire day laborers.

162. If HB 56 goes into effect, John Doe #5 is worried that he will be targeted, harassed, and potentially arrested for soliciting work in public and for

167. Defendant Luther Strange is the Attorney General of Alabama. Defendant Strange is "the chief law enforcement officer of the state and has supervisory authority over every district attorney in Alabama." Ala. Code § 36-15-14. The Alabama Constitution provides that "[t]he legislature may require the [A]ttorney [G]eneral to defend any or all suits brought against the state," Ala. Const. art. V, § 137, and state statute requires that the Attorney General "shall appear in the courts . . . of the United States[] i

implementing and enforcing the provisions of HB 56. Defendant Morton is sued in his official capacity.

169. Defendant Freida Hill is Chancellor of Postsecondary Education. In that capacity, Defendant Hill is the Chief Executive Officer of the Postsecondary Education Department of the State Board of Education, and is responsible for directing all matters involving the junior colleges and trade schools pursuant to the policies of the State Board of Education. She is responsible for interpreting, executing, and enforcing the rules and regulations of the State Board of Education governing junior colleges and trade schools. Defendant Hill is authorized to take any and all actions to administer policies, rules and regulations of the State Board of Education in carrying out its responsibility for the management and operation of the junior colleges and trade schools. Ala. Code § 16-60-111.5. Accordingly, Defendant Hill has enforcing the provisions of HB relatd to postsecondary education. Defendant Hill is sued in er official capacity.

are responsible for seeing that the laws relating to the schools, the rules and regulations of the state and county boards of education are carried into effect. Ala. Code § 16-9-13. They are responsible for preparing rules and regulations governing the conditions under which children may be admitted to junior and senior high schools of the county. *Id*

173. On June 2, 2011, the Alabama legislature enacted HB 56, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants.

174. Governor Bentley signed HB 56 on June 9, 2011. The law is scheduled to take effect on September 1, 2011, except for Sections 22 and 23 (related to state law enforcement staffing and coordination), which went into effect immediately, and Sections 9 and 15 (related to employment verification), which will go into effect in 2012.

178. When Representative Hammon introduced HB 56, he explained that "much of what is in this legislation" came from the report produced by the Joint Interim Patriotic Immigration Commission ("Commission"), on which he served.

179. The Commission was created in June 2007 by the Alabama legislature to address the "unprecedented influx of non-English speaking immigrants." S.J. Res. 22, Reg. Sess. 2007 (Ala. 2007). The Commission was tasked with "outlining suggestions and proposals to address the issues of illegal and legal immigration in Alabama." *Id* In establishing the Commission, the legislature explicitly asserted that "states must exercise power to investigate, ap

well as by making law enforcement policies more punitive and employer hiring practices more restrictive.

181. Alabama held elections in 2010, and during that election cycle Representative Hammon and Senator Beason campaigned on a pledge referred to as the Handshake with Alabama, which, among other things, would address "illegal immigration" because "[p]oliticians in Washington refuse to act, so we must bring the fight to the home front." Mike Hubbard, *Press Rele se GOP Legisl tive Le ders Unveil Repu lic n H ndsh ke with Al* Aug. 16, 2010 (hereinafter referred to as "Handshake with Alabama"). The pledge promised to "push an illegal immigration bill simil

federal government to solve the illegal immigration problem we have." Senator Beason concurred: "If the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws." Senator Jimmy Holley echoed this position: "We have a—a challenge before us, and that is to take the unwillingness of the federal government

> So, what we have got to do is we have got to do everything that we can to deal with this problem. And this bill, I believe, goes a long way in doing that.

185. Legislators also made similar remarks in the press. *See e g* , Kim Chandler, *Al House P sses Arizon -Style I igr tion L w*, Birmingham News, April 5, 2011 ("The illegals in this country are ripping us off. If we wait for the federal government to put this fire out, our house is going to burn down.") (quoting Representative Kerry Rich); Adam Smith, *Slowing Illeg ls Could Produce Money Dr in*, The News Courier, Apr. 24, 2011 ("The federal government is not acting and this may give us leverage with them.") (quoting Senator Bill Holtzclaw); M.J. Ellington, *L w kers Spe k Out on I igr tion*, The Decatur Daily, May 29, 2011 ("[Senator] Beason . . . said if Alabama has its own immigration law, it will be in a position to lead and put pressure on Congress to change federal law."); Dana Beyerle, *He rt of Repu lic n Legisl tive Agend on T p Tuesd y*, The Gadsden Times, Mar. 5, 2011 ("Bill sponsor Rep. Micky Hammon, R-Decatur, said his goal is to make the federal government enforce federal immigration laws. 'We intend to move forward and make it a federal issue by passing these tough laws and forcing their hand,' Hammon said.").

186. During the debates, at least two legislators emphasized that HB 56 was unconstitutional. Senator Singleton stated, "[W]e at the State of Alabama continue to try to . . . make some laws when we know they are not going to stand

constitutional muster." Representative Newton observed that this was a "feel-good

> percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.
>
> It is costing our area hundreds of thousands, if not millions, of dollars to educate these children. And the taxpayers in my area—they don't deserve to have to pay that bill. They don't deserve that.

190. Those who opposed the legislation likewise understood that it took aim at Mexicans and Latinos. Senator Holmes stated: "The purpose of this bill is . . . these Mexicans . . . . [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can] . . . ." Senator Singleton similarly observed: "[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans . . . ." Representative Jackson remarked that the effects of HB 56 would reach even further than targeting Latinos: "It just doesn't stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities."

191. Indeed, the debate around immigration in Alabama is racially charged at best and at times even tends to violence. For example, at a recent town hall meeting, Alabama Congressman Mo Brooks stated, "As your congressman on the house floor, I will do anything short of shooting them." Venton Blandin, *Congress n Mo Brooks M kes Strong Co ents on Illeg l I igr tion L w*, WHNT News 19 (June 29, 2011), at http://www.whnt.com/news/whnt-

congressman-mo-brooks-makes-strong-comments-on-illegal-immigration-law-20110628,0,1001498.story.

192. One of the chief bill sponsors, state Senator Scott Beason, told an audience in February 2011: "'The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually . . . . If you don't believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.'" Beason then "ended his speech by advising Republicans to "'empty the clip, and do what has to be done.'" Sam Rolley, *Be son*: *De s Don t nt To Solve Illeg l I igr tion Pro le* , The Cullman Times (Feb. 6, 2011), at http://www.cullmantimes.com/local/x2072622472/Beason-Dems-don-t-want-to-solve-illegal-immigration-prob.

193. In short, the history of HB 56 makes clear that the legislature enacted the law as a comprehensive state solution to the perceived problem of the federal government's failure to regulate immigration to Alabama's liking as well as based on an attempt to drive immigrants, particularly Mexican and other Latino immigrants, out of the state.

Key Provisions of HB 56

194. The full text of HB 56 as enacted is appended to this Complaint as Exhibit A and incorporated herein.

195. HB 56 is a comprehensive state-law system of immigration regulation. HB 56 is designed to impose new punishments for violations of immigration law (as defined by state law and state officers); to detain and ultimately to cause the expulsion of those the state deems to be unworthy of continued residence; and to criminalize a broad swath of everyday interaction with such individuals. By regulating every aspect of the lives of immigrants, from housing to education to employment, HB 56 is designed explicitly to drive immigrants out of the state of Alabama and to deter immigrants from entering the state of Alabama.

Mandatory Investigation of Immigration Status by St

of U.S. citizens. In these circumstances, the federal government will report that there is "no match" for the suspect, and will have to engage in a lengthy and manual file review by immigration officers. If a manual file review is required in response to an inquiry on an individual, this process can take over two days.

201. Section 12 will unreasonably prolong police encounters, such as traffic stops that would ordinary result in a citation that would take only minutes absent HB 56's mandates. Many citable traffic violations and other minor offenses, such as jaywalking or littering, are deemed criminal violations under Alabama law; under Section 12, officers are authorized to prolong such stops in order to investigate immigration status.

202. Immigration status queries mandated by HB 56 impose a substantial burden on federal authorities, who will be required to respond to an enormous increase in the number of immigration status inquiries and will have less ability to

"reasonable suspicion" of an individual's unlawful status might be. That determination is left entirely to an officer's discretion and increases the likelihood that an officer will engage in discrimination based on an individual's appearance, language choice, or English-language ability.

205. Section 12 is designed to and will have the effect of requiring everyone in Alabama, particularly those who might be perceived as foreign, to carry identification papers reflecting their immigration status with them at all times to avoid unreasonably pro h(n)-5.23766416(t)3.61(a)7.2 [illegible] c29.413 657(v)-5.236b7( )10.2266(w)11.7026(h)-5.2616di(a)-1.2935(a)-1.2935( )1.66312(A)

209. Law enforcement officials across the country and in Alabama have stated that HB 56 cannot be implemented in a race-neutral fashion and will inevitably lead law enforcement officers to rely inappropriately on race, ethnicity, and English-language ability in making decisions about whom to subject to additional scrutiny with questions regarding their immigration status.

210. Implementation of HB 56 will have a significant negative impact on the ability of local law enforcement officers to protect immigrant communities and mixed-immigration status communities and families, *i e* , those that include individuals with and without lawful status. Because immigrants will avoid the police out of fear that any interaction with law enforcement could lead to immigration status inquiries, Alabama law enforcement officers will not get the assistance they need to prosecute crimes. For example, Plaintiff HICA provides substantial victim assistance and courtroom advocacy services to victims of crime, and the organization anticipates that HB 56 will substantially limit the willingness of victims to seek those services and protections.

211. HB 56's immigration investigation and arrest provisions (Sections 12 and 18) suffer from the same constitutional defects as provisions in the recent Arizona, Utah, Indiana, and Georgia immigration laws—all of which have been enjoined. *United St tes v Arizon* , 703 F. Supp. 2d 980, 1006 (D. Ariz. 2010), *ff d*, 641 F.3d 339 (9th Cir. 2011); *Ut h Co lition of L R z v Her ert*, No. 11-

215. The provision criminalizes certain immigrants for "simply setting foot in Alabama." Mike Hubbard, *H ndsh ke with Al* , Aug. 16, 2010. A similar provision in Arizona's Senate Bill 1070 has been preliminary enjoined. *See United St tes v Arizon* , 703 F. Supp. 2d 980, 1006 (D. Ariz. 2010), *ff d*, 641 F.3d 339.

Education Provisions (Sections 8 and 28)

216.

Protected Status because of environmental disaster or armed conflict in their home countries, or deferred action.

220. People who are granted asylum or refugee status are authorized to reside in the United States indefinitely, *see* 8 U.S.C. §§ 1157-1158, and after

Illeg l I igr tion Bill, The Birmingham News, Mar. 3, 2011, *v il le t* http://blog.al.com/spotnews/2011/03/alabama_legislative_panel_dela.html. Likewise, Senator Beason, the bill's sponsor in the

225. Section 28(e) further authorizes school officials to report both children and parents whom they presume to be "unlawfully present" to the Department of Homeland Security (DHS). Section 28 specifically authorizes school officials to disclose information that personally identifies a student to

States years ago and subsequently regularized her status as it does to an immigrant who currently lacks valid immigration status.

228. Section 13 makes it a crime to "[e]ncourage or induce an alien" without legal status "to come to or reside in this state." Sec. 13(a)(2).

229. Section 13 makes it illegal to "[t]ransport" an alien if that alien who "has come to, has entered, or remains in the United States in violation of federal law." Sec. 13(a)(3). This section applies with equal force to an immigrant who entered the United States years ago and subsequently regularized her status as it does to an immigrant who currently lacks valid immigration status.

230. Section 13 makes it a crime to "harbor an alien unlawfully present . . . by entering into a rental agreement." Sec. 13(a)(4).

231. Alabama passed its own version of these provisions in Section 13 precisely to bypass the federal government's definitions and prosecutorial and adjudicatory processes under a parallel federal statute, 8 U.S.C. § 1324.

232. Alabama intended (and achieved) an extraordinarily broad criminal prohibition in Section 13. For example, the transportation provision was specifically written to apply to "transportation anywhere in Alabama, whether it is a trip across the state or simply to the corner store." Mike Hubbard, *H ndsh ke with Al* , Aug. 16, 2010.

233.

motor vehicle and to be transported to work at a different location if the motor vehicle blocks or impedes the normal movement of traffic." This prohibition, too, applies regardless of immigration status or work authorization.

241. Sections 11(f) and (g) criminalize work-related solicitation speech while leaving other types of speech unregulated. The prohibition is triggered only by communication *out work* that occurs in public rights of way between a potential employer and a potential employee. HB 56 thus singles out one content-

244. Section 11's prohibition on work (Section 11) suffers from the same fatal flaw as a provision in Arizona's Senate Bill 1070 that has been preliminary enjoined. *See Arizon* , 703 F. Supp. 2d at 1006, *ff d*, 641 F.3d at 357-360.

Contract Provision (Section 27)

245. With limited exceptions, Section 27 prohibits Alabama state courts from recognizing or enforcing contracts between an alien unlawfully present in the United States and any other party, provided that the other party had direct or constructive knowledge that the alien was unlawfully present in the United States, and provided that the contract "requires the alien to remain unlawfully present in the United States for more than 24 hours after the time the contract was entered into or performance could not reasonably be expected to occur without such remaining." Sec. 27(a).

246. Section 27 effectively excludes undocumented immigrants—and parties who contract with them—from participating in a wide array of civil and commercial affairs. For example, Section 27 facially prohibits Alabama state courts from recognizing or enforcing: marriage contracts, settlement agreements (including divorce and custody agreements), waiver and release agreements, plea agreements, mortgage agreements, insurance contracts, contracts for wages (including minimum wages and overtime wages required by federal law), confidentiality and non-disclosure agreements, contracts for the provision of

250. Section 30 makes it a felony for an "unlawfully present alien" to enter or attempt to enter any "transaction" with the state or local government agency. Sec. 30(b). Section 30 also prohibits a third party from entering or attempting to enter into a transaction on behalf of an alien not lawfully present in the United States. *Id*

251. The term "transaction" is not defined in HB 56. Section 30 does provide examples of prohibited transactions or attempted transactions—applying for or renewing a motor vehicle license plate, driver's license, nondriver identification card, or business license—but this list is expressly made nonexclusive.

252. Section 30 effectively criminalizes a host of routine interactions between individuals and state and local government agencies, such as applying for a fishing license or paying a state park entrance fee.

253. By criminalizing " *ny tr ns ction* [or attempted transaction] between a person and the state or a political subdivision," Section 30 reaches conduct that may be protected by the First Amendment, the due process clause, and other constitutional provisions, such as accessing or using the courts, public hospitals, public highways, or other public accommodations or services in circumstances that require "transactions." It also reaches such basic, everyday conduct as applying for

a public library card, paying municipal property ta

be guilty of a felony, even if that family member did not know that the applicant was not "lawfully present."

General Interpretive Provisions (Sections 5, 6, and 25)

260. Section 5 directs the state Attorney General to "report any violation of [either subsection] . . . to the Governor and the state Comptroller." Upon such action by the state Attorney General, "that agency or political subdivision shall not be eligible to receive any funds, grants, or appropriations from the State of Alabama until such violation has ceased and the Attorney General has so certified." Sec. 5(a).

261. Section 5 also provides that "[e]very person working for the State of Alabama or a political subdivision thereof . . . ha[s] a duty to report violations of this act." § 5(f). Failure to report a violation amounts to "obstructing governmental operations" as defined in Alabama Code § 13A-10-2, which is punishable by imprisonment for up to 1 year, and fines up to $6,000. *See* Ala. Code §§ 13A-5-7, 13A-5-12.

Section 6

262. Section 6 prohibits any agency of the state or any political subdivision thereof from adopting a policy or practice that limits or restricts the enforcement of HB 56. Sec. 6(a).

263. If the Attorney General determines that any agency violates Section 6(a), the Attorney General must report this to the Governor and Comptroller, and the agency will no longer be eligible to receive any state funding. *Id*

264. Section 6 also requires all state officials, agencies, and personnel to fully comply with and, to the full extent permitted by law, support the enforcement of HB 56. Sec. 6(b).

265. Under Alabama state law, sheriffs are state officers and thus bound by Section 6(b).

266. Section 6 creates a private right of action for private citizens to enforce the provisions of Section 6. Sec. 6(d).

267. Section 6 creates a new state crime for any person working for the State of Alabama, or any political subdivision thereof, from failing to report a violation of Section 6 or HB 56. Sec. 6(f).

268. Together, Sections 5 and 6 operate to ensure that Alabama officials and agencies maximally enforce each of the provisions of HB 56, and the provisions of federal immigration law as interpreted by the state Attorney General.

Section 25

269.

Comprehensive Federal Immigration System

271. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I, § 8, cl. 4, and to "regulate Commerce with foreign Nations," *id.* cl. 3. The federal government has

280. Under federal law, there is no single, readily ascertainable category or characteristic that establishes whether a particular person may or may not remain in the United States. The answer to that question is a legal conclusion that can only be reached through the processes set forth in the INA, and which may depend on the discretionary determinations of federal officials.

281. There are many non-citizens who are present in the United States without formal immigration status who would not be removed if placed in federal removal proceedings, or who actually have temporary permission from the federal government to be in the United States. For exampleirmentii esst-0.970065()-4.5900uoe. -5.2360

21. [illegible]

process at the LESC is time-intensive and can take between 80 minutes and two days. Following congressional guidance, the LESC has prioritized its efforts in order to focus on those aliens most likely to pose a threat to their communities.

286. In addition, the federal government often exercises its prosecutorial discretion to prioritize certain cases for action over others. The federal government's decision to exercise such discretion may be based upon a wide range of equitable factors, and its exercise in any given case cannot be predicted in advance.

287. As a result, the question whether any given non-citizen may remain in the United States depends upon a host of complicated and time-consuming legal and discretionary determinations by a variety of federal officials. It cannot be conclusively determined by a status verification query to the federal government. Inquiries made by law enforcement officers to ICE's Law Enforcement Support Center (LESC) or state agencies to the federal SAVE database yield, at best, a snapshot of what a federal agency believes to be an individual's current immigration status or eligibility for benefits, respectively, which may not correspond to the ultimate finding of whether she is subject to removal. *See* Department of Justice Office of the Inspector General, *Follow-up Review of the St tus of IDENT IAFIS Integr tion* at 41 (2004), *v il le t* http://www.justice.gov/oig/reports/plus/e0501/final.pdf (noting that, according to

DHS officials, DHS's immigration "databases cannot be relied upon to accurately determine immigration status [at any given time] because immigration status is

291. The INA includes a national alien registration system that displaces and preempts state alien registration laws.

292. The federal registration scheme has been in place since 1940 and was designed to create a single, uniform, national scheme.

293. The preemptive effect of the federal alien registration scheme was expressly recognized by the President of the United States when the scheme was created and has been upheld by the Supreme Court.

294. The federal regulation implementing 8 U.S.C. §§ 1302, 1304, and 1306 prescribes as "evidence of registration" specific forms for compliance. *See* 8 C.F.R. § 264.1. The list, however, has not been updated to include some of the current federal forms that are commonly used. For example, there is no corresponding registration form available for recipients of U visas (given to victims of crime who assist in the prosecution of the case) or T visas (given to victims of human trafficking). As a result, there are categories of noncitizens who have applied for immigration benefits or whose presence in the United States is otherwise known to federal immigration agencies but who do not have registration documents that are valid under the regulations.

295. Many of the changes that have been made to the INA since the

criminal offenses. Targeting immigrants convicted of serious crimes, rather than those who may be in violation of the registration provisions, is the principal priority of federal immigration officers.

Federal transportation provision

296. The INA also establishes criminal penalties for the transporting and harboring of certain non-citizens. *See* 8 U.S.C §§ 1324(a)(1)-(2). Violations of these provisions carry fines and prison terms ranging from five years to life. *Id*

297. The federal courts are engaged in an ongoing process of interpreting the statutory language in 8 U.S.C § 1324(a) and determining the reach of the federal prohibitions therein.

298. Section 13 of HB 56 will not be interpreted consistently with 8 U.S.C. § 1324(a) because there are numerous and material differences between the state and federal statutes. For example, 8 U.S.C. § 1324(a) does not criminalize renting, but Section 13 does. Section 1324(a)(1)(C) contains First Amendment protections regarding certain religious workers, but Section 13 does not. And § 1324(a)(1)(A)(iv) outlaws inducing certain aliens to enter the United States, but Section 13 concerns inducing persons to enter Alabama.

Federal employment authorization and sanctions system

299. The INA contains a comprehensive scheme to regulate the employment of aliens that reflects a careful balance between multiple objectives,

304. Section 1357(g) of Title 8 of the U.S. Code allows the federal

CBS/AP, Apr. 23, 2010, at http://www.cbsnews.com/stories/2010/04/23/politics/main6426125.shtml.

311.

to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

314. HB 56 has already impaired the United States' foreign relations by upsetting a key ally. On the day Governor Bentley signed HB 56 into law, the Mexican government expressed concern that the law will threaten the "human and civil rights of Mexicans who live in or visit Alabama," and that it is "[in]consistent with the vision of shared responsibility, mutual respect and trust under which the governments of Mexico and the United States have agreed to conduct their bilateral relations." Mexican Foreign Affairs Ministry, *The Me ic n Govern ent Regrets the En ct ent of HB in Al* (June 9, 2011), available at http://www.sre.gob.mx/csocial/contenido/comunicados/2011/jun/cp_200a.html.

315. Alabama's enactment of HB 56 also undercuts the United States' stated commitment to its treaty obligations and int

Law in U.S. State of Alabama (June 24, 2011), at http://www.cidh.oas.org/Comunicados/English/2011/63-11eng.htm.

316. HB 56 also interferes with U.S. foreign relations by calling into question the federal government's ability to ensure compliance with our country's treaty obligations. In particular, the United States has signed and ratified two international treaties that prohibit racial profiling: the Convention on the Elimination of All Forms of Racial Discrimination ("ICERD"), art. 2(2), 660 U.N.T.S. 195, 218; and the International Covenant on Civil and Political Rights ("ICCPR"), art. 2(2), 999 U.N.T.S. 171, 173. Those treaties, ratified by the United States, require the U.S. government to combat racial profiling. By encouraging and authorizing racial profiling, and in light of formal statements of concern by foreign governments (see paragraph 317 below), HB 56 interferes with the United States' compliance with its treaty obligations and subjects the United States to international censure.

317. In response to similar state anti-immigrant laws, such as Arizona SB 1070 and Georgia's HB 87, numerous foreign governments expressed concern that such laws will cause widespread violations of the United States' treaty obligations, which would harm their nationals living in or visiting the United States. *See e g* , Brief of the United Mexican States as Amicus Curiae in Support of Plaintiffs, *Friendly House et l v hiting et l*. at 1, Case No. 10-01061, Doc. No. 299 (D.

the class as a whole and have no interests antagonistic to other members of the class. The Individual Plaintiffs are also represented by *pro ono* counsel,

326. Plaintiffs have no plain, speedy, and adequate remedy at law against HB 56 other than the relief requested in this Complaint.

327. If HB 56 takes effect, the Plaintiffs and other individuals of color in Alabama will be subject to unlawful detention, arrest, and harassment including all Individual Plaintiffs and the staff and members of all the Organizational Plaintiffs, as well as members of the proposed plaintiff class.

328. If allowed to take effect, HB 56 would violate the right of plaintiffs,

331. If allowed to take effect, HB 56 would violate the rights of all Plaintiffs, as well as members of the proposed plaintiff class, guaranteed by the Sixth Amendment and the Due Process Clause.

332. If allowed to take effect, HB 56 would violate the rights of Plaintiffs, including Plaintiffs Barber, Upton, Beck, Cummings, Jane Doe # 2, and members

336. Defendants' enforcement of HB 56 will constitute an official policy of the state of Alabama.

337. Plaintiffs are entitled to a declaration that HB 56 is unconstitutional on its face and to an order preliminarily and permanently enjoining its enforcement.

CAUSES OF ACTION

COUNT ONE

and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

342. Plaintiffs move for relief on this claim directly under the Constitution, and as an action seeking redress of the deprivation of statutory rights under the color of state law, and also under 42 U.S.C. § 1983.

COUNT TWO

FOURTH AMENDMENT; 42 U.S.C. § 1983

343. The foregoing allegations are repeated and incorporated as though fully set forth herein.

344. The Fourth Amendment to the U.S. Constitution prohibits

COUNT THREE

FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE;

352. The foregoing allegations are repeated and incorporated as though fully set forth herein.

353. The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides, in pertinent part, “nor shall any State deprive any person of life, liberty, or property, without due process of law.”

354. HB 56 deprives persons seeking to vindicate their liberty or property interests in civil and criminal cases in the Alabama state courts of due process of law, in violation of the Fourteenth Amendment Due Process Clause.

355.

359. The First Amendment to the U.S. Constitution provides that "Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The First Amendment's guarantees are applied to the States through the Fourteenth Amendment.

360. Section 11 of HB 56 violates the First Amendment right to free speech because it is a content-based restriction on speech relating to work and is

364. The Contracts Clause, Article I, Section 10 of the U.S. Constitution, provides, in pertinent part, that "No State shall . . . pass any . . . Law impairing the Obligation of Contracts."

365. Section 27 of HB 56 unconstitutionally impairs the obligation of contracts by forbidding courts of the State of Alabama from enforcing "the terms, or otherwise regard as valid, any contract between a party and alien unlawfully present in the United States, within the meaning of HB 56, if the party had direct or constructive knowledge that the alien was unlawfully present in the United States at the time the contract was entered into, and the performance of the contract required the alien to remain unlawfully present in the United States for more than 24 hours after the time the contract was entered into or performance could not reasonably be expected to occur without such remaining."

366.

368.

373. The foregoing allegations are repeated and incorporated as though fully set forth herein.

374. The Compulsory Process Clause, U.S. Const. amend. VI, provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have compulsory process for obtaining witnesses in his favor."

375. HB 56's criminal provisions violate the Compulsory Process Clause and the Due Process Clause because the defendant is prohibited from presenting a defense on the issue of whether he or she possesses lawful immigration status.

376. Plaintiffs move for relief on this claim directly under the Constitution and as an action seeking redress of the deprivation of statutory rights under the color of state law, also under 42 U.S.C. § 1983.

COUNT NINE

42 U.S.C. § 1981; 42 U.S.C. § 1983

377. The foregoing allegations are repeated and incorporated as though fully set forth herein.

378. Section 1981 of Title 42 of the United States Codes provides, in pertinent part:

> (a) Statement of equal rights
> All persons within the jurisdiction of the United States shall have the

> pains, penalties, taxes, licenses, and exactions of every kind, and to no other.
> (b) "Make and enforce contracts" defined
> For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

379. HB 56 deprives persons classified by Alabama officers and officials as "alien[s] unlawfully present in the United States" of the rights enumerated in 42 U.S.C. § 1981.

380. Plaintiffs move for relief on this claim as an action seeking redress of the deprivation of statutory rights under the color of state law, also under 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing facts and arguments, Plaintiffs request that the Court:

a. Assume jurisdiction over this matter;

b. Declare that HB 56 is unconstitutional in its entirety;

c. Enjoin Defendants from enforcing HB 56;

d. Grant Plaintiffs' costs of suit, and reasonable attorneys' fees and other expenses pursuant to 28 U.S.C. § 1988; and

e. Grant such other relief as the Court may deem appropriate.

Dated: July 8, 2011 Respectfully submitted,

/s/ Mary Bauer
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