

THE EFFECTS OF ALABAMA'S IMMIGRATION LAW IN EDUCATION

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ABSTRACT

The Alabama House Bill 56 Immigration Law was implemented on September 28, 2011. Schools were required to collect information on children to target undocumented immigrants. The H.B. 56 law violated several federal laws and was later decided by the U.S. Northern District Court level to permanently block sections of the H.B. 56 law. However, under Trumps administration, the H.B. 56 Immigration Law could now be considered lawful.

Keywords: Alabama H.B. 56, Beason-Hammon Alabama Taxpayer and Citizen Protection Act, non-documented immigrant, education.

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Alabama holds one of the toughest state laws, the Alabama House Bill 56 (H.B.56) Immigration Law also known as the "Beason-Hammon Alabama Taxpayer and Citizen Protection Act" was implemented on September 28, 2011 (Love, 2011). It was promoted to create new jobs for the state (New American Media, nd). Because of the law, many illegal immigrants were driven away from their homes, place of employment, schools, church, as well as many other areas. Similar laws compared to Arizona, Colorado, and Georgia are not as stringent as Alabama's immigration law. This law reached approximately 150,000 Mexican families and others from Central America. Parents and guardians removed their children from schools. They loaded trucks with their furniture and said their goodbyes to people who they would probably never see again. These people came for the purpose of the American Dream; instead the HB6 law shattered their dreams (Constable, 2011).

Schools were required to account for the number of undocumented students enrolled in the school. According to the H.B. 56 law, the schools were to collect student's information as age and proof of birth location, which was unconstitutional. Instead, schools should focus the business of education and not to be overruled in law enforcement. Some lawmakers support the requirement of data as general statistics and an assessment of monies used to educate children of undocumented immigrants. The Federation for American Immigration Reform (FAIR) estimates that the cost for educating the children of undocumented immigrants is closely \$52 billion annually. But then, the McKinney-Vento Act forbids the public schools system from refusing homeless and migrant children without evidence of a birth certificate and proof of residency. Children are to be protected while in the public school system and should not be bared as an undocumented immigrant; however, the state reporting of required data serves the same purpose of the HB6 Immigration Law (Sierre, 2011).

Precedent Case - Plyler vs Doe

The State of Texas endorsed the new Texas Education Code section 21.031 in 1975, which allowed the public school system to charge undocumented children tuition. The statue read:

"All children who are citizens of the United States or legally admitted aliens who are

over the age of five year and under the age of 21 years on the first day of September of any scholastic year shall be entitled to the benefits of the Available School Fund for that year.”

“Every child in the state who is a citizen of the United States or a legally admitted alien and who is over the age of five years and not over the age of 21 years on the first day of September of the year in which admission is sought should be permitted to attend the public free schools of the district in which he reside: in which his parent, guardian, or the person having lawful control of him reside the time he applies for admission.”

“The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition of all persons who are either citizens of the United States or legally admitted aliens and who are over five and not over 21 years of age at the beginning of the scholastic year if such person or his parent, guardian or person having lawful control resides within the school district” (Olivas, 2011).

In 1980, Houston’s Gulf Coast Legal Foundation conducted a random survey on the school district. School district with greater than 10,000 students reported: a) six schools would not charge tuition on undocumented students, b) six schools would charge a tuition, c) eleven would prohibit them entirely, and e) no response from the others. Another school district with approximately 16,000 students reported: a) seven would not charge tuition, b) five would charge tuition, c) three would exclude entirely, d) sixteen no response from the others. Not all independent school districts elected to charge tuition, but certain schools did. For example, one of the largest Houston School District with over 200,000 students charged an annual fee of \$1,000 per child. Similarly, the smallest Tyler School District with approximately 16,000 students charged an annual fee of \$1,000 per child. Several other school districts across the borders prohibited undocumented children whether or not if they could afford to pay, such as, Ysleta, Brownsville, and Dallas. Overall, children were being charged a fee for education compared to other children who were not charged a fee (Olivas, 2011).

The Supreme Court’s decision in the Plyler vs Doe case in 1982, was declared that a child cannot be denied an education due to immigration status within the K- 12 school system. The court discovered in the case that the state of Texas had failed to follow the Fourteenth Amendment that includes an Equal Protection Clause. Denying a child from receiving an education within its jurisdiction could form a lifetime hardship and should not be held accountable if family members cross the borders as undocumented immigrants. Therefore, the state failed to demonstrate substantial government interest (Love, 2011).

Advocates Against the H.B. 56

The H.B.56 law continued to spark debates throughout Alabama, though both supporters and critics somewhat agree at a certain point. But, lawsuits were filed against the Alabama state by three different parties: U.S. Department of Justice, leaders of religious groups, individuals, and other organizations, requesting the court to remove portions of the H.B. 56 law as unconstitutional and contradicts with the federal law. A temporary hold was placed on August 28, 2011, by the federal judge, until the new ruling on September 28, 2011. The National Education Association (NEA) with the Alabama Education Association (AEA) presented to the courts to declare H.B. 56 as an unconstitutional law. Alice O’Brien, a representative of the NEA General Counsel stated, “All students are entitled to a quality

public education as ruled by the Supreme Court decades ago. The inevitable effect and clear purpose of this law is to drive immigrant students out of Alabama schools. And it is clear that this harmful venture is shortsighted and misguided.” For over 30 years, the U.S. Department of Education has commanded the school districts to abide by the 1982 case, Plyler vs. Doe held by the Supreme Court. The courts declared this case to be unconstitutional to refuse an undocumented student the rights to a public education. The ruling of the H.B. 56 law caused fear in the undocumented parents in the prevention of registering their children in public schools. Many students were waiting to enroll in the public school until a final decision by the federal court. (Bright, Rebecca, 2011).

To follow the requirements of the H.B. 56 law, took additional personnel to find out who’s legal or not legal. This engaged the schools to police undocumented immigrants. Actually, schools should not be held responsible to do this, with no addition resources (Bright, Rebecca, 2011). In addition, business entities were required to enroll in an online federal government database called Everify. This database not only verified employment, but it could also be a catalogue for checking someone’s immigration status (Zhang, 2016). In compliance with the law, educators were commanded to report undocumented family members (Bright, Rebecca, 2011).

The Alabama 2010 Census had the second highest Latino population in the country.

STATES WITH LARGEST GROWTH IN HISPANIC POPULATION



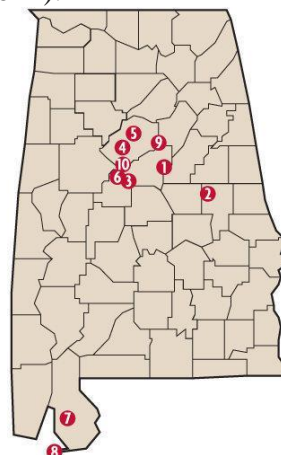
STATE	PERCENT CHANGE SINCE 2000
1. South Carolina	▲ 148%
2. Alabama	▲ 145%
3. Tennessee	▲ 134%
4. Kentucky	▲ 122%
5. Arkansas	▲ 114%

Source: Pew Hispanic Center

The Hispanic Residents have increased in ten different cities within the state of Alabama in 2010. In the United States, the Hispanic population grew over 15 million at a 56 percent national increase from 2000 - 2010 (Gray, 2011).

INCREASE IN HISPANIC RESIDENTS IN ALABAMA CITIES

CITY *	HISPANIC POP. 2010	PERCENT CHANGE SINCE 2000
1. Chelsea	325	▲ 1254%
2. Alexander City	708	▲ 957%
3. Calera	578	▲ 863%
4. Midfield	77	▲ 863%
5. Fultondale	909	▲ 766%
6. Alabaster	2,723	▲ 682%
7. Robertsdale	488	▲ 568%
8. Gulf Shores	394	▲ 535%
9. Leeds	774	▲ 453%
10. Helena	560	▲ 444%



* Cities with populations over 5,000

Source: Census 2010

On Friday, May 6, 2011, the federal officials dispensed a memorandum to every school districts in the nation that declared its prohibition for education officials to disclose the immigrations status of children by asking for their immigration papers as part of their enrollment for school (Semple, 2011). Meanwhile, the federal appeals court blocked schools from checking the student's immigration status on October 14, 2011. The court gave the provisions to the police to investigate people residency status if they were suspected as being an illegal immigrant during traffic stops (Empire Justice Center, 2011).

The case for appeal was denied at the Supreme Court level, because of its relationship to a previous case on the federal level. Later, the settlement went to the U.S. Northern District Court level and was decided by the court to permanently block sections of the H.B. 56 Act.

- "Section 10, which criminalized failing to register one's immigration status, was initially blocked by the U.S. Court of Appeals for the 11th Circuit and now has been permanently blocked.
- Section 28, which required schools to verify the immigration status of newly enrolled K-12 students was initially blocked by the 11th Circuit and now has been permanently blocked.
- Section 13, which criminalized giving a ride or renting to someone who is undocumented, was initially blocked by the U.S. District Court in Birmingham and now has been permanently blocked.
- Section 11(a), which criminalized the solicitation of work by unauthorized immigrants, was initially blocked by the District Court in Birmingham and now has been permanently blocked.
- Sections 11(f) and (g), which criminalized day laborers' First Amendment right to solicit work, was initially blocked by the District Court in Birmingham and now have been permanently blocked.
- Section 27, which infringed on the ability of individuals to contract with someone who was undocumented, was initially blocked by the 11th Circuit and now has been permanently blocked."

Furthermore, Alabama law enforcement was not allowed to stop someone solely to inspect their immigration status. Alabama was fined \$350,000 in legal fees in favor of the plaintiffs. An agreement between the Department of Justice, along with three dozen plaintiffs ("represented by the American Civil Liberties Union, the Southern Poverty Law Center and the National Immigration Law Center") was conducted in the settlement to drop other remaining claims against the H.B. 56 Act (Beadle, 2013).

Violation of Laws:

Family Educational Rights and Privacy Act

The collection and report of children information relating to their immigration status is unethical and could be unconstitutional. Even though the intent is to obtain a precise count on the number of school children, it could also reveal the name of a family members as an undocumented immigrant. This could prohibit families from allowing their children from attending school. The intent of the school was to maintain an accurate count on undocumented children. Instead, it prevented immigrant families from sending their child to school.

Racial Ethnic Profiling

The practice of racial profiling is described as the selection of citizens stopped by the police in a vehicle and foot to search or arrest the person while being scrutinized by law enforcement. Nevertheless, it was not restricted to law enforcement, but applied to the public

education system. School discipline policies expressed racialism with a negative outcome with students of color (Johnson, Boyden, & Pittz, 2001). The passing of the Alabama H.B. 56 law had created an unconstitutional environment by state and local law enforcers in the conduction of racial profiling. Officers were allowed to investigate anyone's immigration status who were believed to have "reasonable suspicion" (National Immigration Law, 2016).

Civil Rights Act

"Title VII of the Civil Rights Act of 1964 prohibits anti-discrimination in employment based on an employee's race, color, religion, sex, or national origin, is regarded as the most inclusive source of employment rights." Supporters against the Alabama H.B.56 law have made efforts to inform people of their rights and have encouraged a Civil Rights movement led by activist. The Alabama H.B. 56 Act violated the Civil Rights Act by not allowing immigrants equal access to an education and violation of their national origin.

Fourteenth Amendment

Clause from Section I - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (Cornell University, 2009).

H.B. 56 Under Trump's Administration

Today under Trump's administration the H.B. 56 law would be considered lawful. Refugees are not entering the United States since Trump's attempt to ban immigrant's entrance into the country. In fact, this was blocked in Seattle, Washington by a federal judge twice in January and March 2017. Last year, Kay served as representative of the Lutheran Immigration and Refugee Service settled approximately, 13,000 refugees from 26 states in 2016. Trump lowered the acceptance number of refugees to 50,000, when before Obama increased the number to 85,000 in 2016 and 110,000 in 2017. The State Department has gradually decreased its refugee applications due to a cap of less people being accepted (Gomez, 2017).

Sheets states in his documentary (2017) that parts of the H.B. 56 law still remains in place. President Donald Trump has enforced an aggressive immigration paradigm in the deployment of immigrants under the Alabama state law. Many undocumented immigrants are fearful that Trump's policies will become more aggressive. Immigrants with children are mostly concerned. Trump is declaring that the Immigration & Customs Enforcement consider anyone who resides in the U.S. illegally to be detained and exported immediately. He has made a proposal to employ 10,000 immigration agents to enforce the existing immigration laws as directed initially by the Alabama H.B. 56 law. While Alabama has a history of deporting undocumented immigrants, what measures will be taken now under the Trump's administration and what penalties could evolve?

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