

**Testimony for the House Health and Government Operations Committee
March 13, 2013**

HB 317 – State Government – E-Verify Program

OPPOSE

The American Civil Liberties Union of Maryland opposes this proposal to mandate the use of E-Verify by certain employers and contractors in Maryland. E-Verify is a seriously flawed system that erodes privacy rights, has an unacceptable error rate, and fails to provide sufficient due process protections for injured workers. Mandating it in Maryland would serve only to magnify the potential for harm by expanding the number of employers using the system.

I. Privacy

The E-Verify system contains an enormous amount of personal information about both U.S. citizen and immigrant workers. The information includes names, phone numbers, social security numbers, email addresses, immigration information, and even photographs in some cases. It also contains links to other databases such as the Customs and Border Patrol TECS database, which stores information about U.S. citizens' travel history, and the Citizen and Immigration Service BSS database, which is a repository of immigration fingerprinting information.¹ The scope of this data creates a high risk of unwarranted surveillance by government agencies and a high risk of identity theft.²

II. Data Errors Result in Injuries to Workers

According to the Department of Homeland Security's own commissioned report, at least 80,000 U.S. citizen workers were improperly denied the right to work in 2012 because of errors in the system.³ The error rate is compounded in cities and states that have required the use of E-Verify. For example, a survey of 376 immigrants in Arizona found that 33.5% of them were fired immediately after receiving a "tentative non-confirmation" result from the E-Verify database. These non-confirmations were the result of errors in the system, but the employees were never provided with an opportunity to correct the error or to challenge the determination. In yet another example, 87% of E-Verify findings in Los Angeles in 2007-2008 were erroneous. These errors can result from any number of factors, including name change due to marriage, a simple keystroke or spelling error, or variations in transcriptions of non-Western names. Each of these errors causes qualified workers to have delayed start dates or to be denied employment altogether. Particularly in

¹ 73 Fed. Reg. 75449.

² See GAO, *Federal Agencies Have Taken Steps to Improve E-Verify, but Significant Challenges Remain*, December 2010 at 24.

³ Westat Report, *Findings of the E-Verify Program Evaluation*, available at http://www.uscis.gov/USCIS/E-Verify/E-Verify/Final%20E-Verify%20Report%2012-16-09_2.

the current economic climate, it goes without saying that being deprived of several weeks of salary or having to find alternative employment can be disastrous for struggling individuals and families.

Moreover, since the error rate for foreign-born workers is significantly higher than for U.S.-born workers,⁴ these systematic flaws may result in alienage-based discrimination by leading employers to shy away from hiring individuals with foreign-sounding names.

III. Lack of Due Process Protections

Despite the high error rate and its negative consequences, affected workers face enormous challenges in correcting inaccurate or inconsistent information. Workers have to write to multiple agencies to request records and identify errors, and they often have difficulty understanding the contents of the notification letters they receive based on the E-Verify results. As of 2009, the average response time for such letter requests was a staggering 104 days.⁵ Despite these problems, there are no due process protections in place for workers who lose their jobs due to government or employer errors.

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In light of the foregoing, we vigorously oppose this proposed law and urge the committee to issue an unfavorable report.

⁴ GAO December 2010 Report at 40.

⁵ Department of Homeland Security, 2009 Annual Freedom of Information Act report to the Attorney General of the United States.