Pennsylvania **I**mmigration and **C**itizenship **C**oalition

2100 Arch Street, 4th Floor, Philadelphia, PA 19103 │305 34th St, Pittsburgh PA 15201
Phone: (215) 832-0636   Fax: (215) 832-0527   Email: admin@paimmigrant.org

E-Verify: Bad for Pennsylvania's Workforce

Immigrants and refugees are one of the driving forces behind Pennsylvania's growing population in both urban and rural areas. From Hazleton to Philadelphia, immigrants have helped revitalize local economies by opening businesses, buying homes, and bringing new vibrancy to areas in decline. Immigrants and refugees are also the backbone of Pennsylvania's agricultural sector, which relies heavily on immigrant labor.

Proposed legislation that mandates the use of E-Verify will harm Pennsylvania's workforce and economy.

1. **Employers will be forced to fire U.S. citizens and work-authorized immigrants due to government errors.**

   - E-Verify is a highly accurate program. However, due to errors in the government databases that support E-Verify, sometimes the system issues a Tentative Nonconfirmation (TNC) and eventually a Final Nonconfirmation (FNC) for a U.S. citizen or work-authorized (legal) immigrant. When this happens, **an employer must fire the worker immediately or face possible penalties from ICE.** For smaller companies who need to quickly hire workers to fill jobs, this could be a nightmare.[1]
   - If use of E-Verify is mandated, over **2,000** citizens and work-authorized (legal) immigrant **construction workers** will have to contact a government agency or risk losing their jobs.[2] and over **1,300** citizens and work-authorized (legal) **construction workers** would likely lose their jobs.
   - Work-authorized immigrants (including refugees and asylees) are **twenty-seven times** more likely to receive a TNC than a U.S. citizen is.[3]

2. **Increased Time and Expenses for Employers**

   - As a starting point to learn the new system, all employers must read a 145-page E-Verify user manual.
   - One small business in Maryland has estimated that it would cost approximately **$27,000** for the company to use E-Verify for one year,[4] thereby handicapping the owner's ability to hire new workers.
   - Bloomberg estimates that E-Verify cost small businesses enrolled in the program **$81 million** in one fiscal year.[5]

3. **Learn From the Experience of Employers**

   - Even employers think that E-Verify laws *encourage the misclassification of workers.*
     - *"If we enact an e-verification bill without doing something about the people who are here, all we're going to do is force people to use labor brokers, independent subcontractors, anything but have employees. Nobody's going to have employees if this thing continues. It's the gig economy. It's the new hot term. Well, construction companies, all we are are our employees. But if someone doesn't have the responsibility to a) train the people; b) make them safe; and c) be sure their taxes are paid, then what do you got? You just have a country that's, basically, dysfunctional."* –Discussion of mandatory E-Verify on the construction industry, Stan Marek, CEO of Marek Businesses in Houston.[6]
   - *"Many of our farmers don't have a human resources department … there might be personnel costs and loss of productivity. You have the person first, then you E-Verify. It's a three-week period. If you fire an employee (before the period is over) you could get a discrimination suit. It's not a good situation."* – Georgia Poultry Federation President, Mike Giles to the Gainesville Times.[7]

4. Learn From Other State Lawmakers

As state legislatures have considered bills that require employers to use E-Verify, Republicans and Democrats alike have raised concerns about the impact of the program on businesses and the economy.

- "E-Verify is a program that is substantially flawed. . . . There is a fairly high level of both false positives and false negatives." —*Republican Florida State Senate Judiciary Chairwoman Anitere Flores, during a hearing on a state bill to require businesses to use E-Verify. Although she was the original sponsor of the bill, she later relinquished the bill over concerns with its provisions.[8]*

- "It is really difficult for an employer, and it is really difficult to get the [hiring] process checked." —*Republican Texas State Rep. Patricia Harless, a former E-Verify user, commenting on a bill that would make E-Verify mandatory, stating that she has seen American workers erroneously flagged by E-Verify and that correcting errors can take days.[9]*

- "You will be creating a mess and a more complicated system for small businesses. This will not solve the problem of illegal immigration." —*Democratic Utah State Senator Luz Robles, critiquing a state bill which required businesses to use E-Verify[10]*

- "This is a very difficult issue. E-Verify is a tool but it's not a fool-proof tool." —*Republican Texas State Rep. Byron Cook, Chairman of the Texas House State Affairs Committee[11]*

- "The states should not be in a position of having to enforce laws which are the responsibility of the federal government." —*Republican Indiana State Senator Ron Alting[12]*

- "If you're going to mandate and punish, you need some way to fill those positions legally." —*Republican Utah Attorney General Mark Shurtleff*[13]

*Adapted from materials created by the National Immigration Law Center (NILC) June 2019

[1] *Findings of the Web-Based E-Verify Program Evaluation* (Westat, Dec. 2009), www.uscis.gov/USCIS/E- Verify/E-Verify/Final%20E-Verify%20Report%2012-16-09_2.pdf, 117. About 0.8 percent of workers receive an *erroneous* tentative nonconfirmation, or "TNC." Approximately 0.5 percent of work-authorized individuals receive a final nonconfirmation in error (0.8 percent receive an erroneous TNC, and 0.3 percent are able to correct their TNC. This results in 0.5 percent of individuals receiving an erroneous TNC that could not be corrected and therefore became an FNC.)..

[2] *See supra.* There are currently about 261,000 workers employed in construction in Pennsylvania (https://www.bls.gov/eag/eag.pa.htm, U.S. Bureau of Labor Statistics, Construction, April 2019). The 2,088 figure was arrived at by multiplying this by the nonconfirmation rate. *Findings of the Web-Based E-Verify Program Evaluation* (Westat, Dec. 2009), www.uscis.gov/USCIS/E- Verify/E-Verify/Final%20E-Verify%20Report%2012-16-09_2.pdf, 117.

[3] *Evaluation of the Accuracy of E-Verify Findings* (Westat, July 2012), www.uscis.gov/USCIS/Verification/E-Verify/E-Verify_Native_Documents/Everify%20Studies/Evaluation%20of%20the%20Accuracy%20of%20E Verify%20Findings.pdf. p.24

[4] Chamber of Commerce of the USA v. Chertoff, No. 08-CV-3444-AW (D.Md.).

[5] Jason Arvello, "'Free' E-Verify May Cost Small Businesses $2.6 billion: Insight," *Bloomberg*, Jan. 28, 2011.

[6] Marketplace, E-Verify could make it even harder for farmers and construction companies to find workers, Sept. 2018, https://www.marketplace.org/2018/09/28/e-verify-could-make-it-even-harder-farmers-and-construction-companies-find/

[7] Gainesville Times, https://www.gainesvilletimes.com/section/6/article/52381/

[8] Jim Ash, "Businesses Slam Plan for Immigration Bill," Pensacola News Journal, Mar. 15, 2011.

[9] Julian Aguilar, "E-Verify Battle Could Soon Greet Texas Lawmakers," The Texas Tribune, Feb. 3, 2011, www.texastribune.org/texas-legislature/82nd-legislative- session/e-verify-battle-could-soon-greet-texas-lawmakers.

[10] Cathy McKitrick, "E-Verify Bill Clears Senate: Opponents say Proposal Won't Solve Illegal Immigration," The Salt Lake Tribune, Mar. 6, 2010.

[11] Julian Aguilar, "Will E-Verify Bills Still Pass Texas Legislature?" *The Texas Tribune,* May 5, 2011, www.texastribune.org/texas-legislature/82nd-legislative- session/will-e-verify-bills-still-pass-texas-legislature/.

[12] "Immigration Bill Q&A: What State Lawmakers Say," *Journal and Courier*, Jan. 19, 2011.

[13] Jeanna Smialek, "State Officials Say Lamar Smith's E- Verify Bill Is Unworkable and Would Cost Americans Jobs," *The Houston Chronicle*, July 20, 2011, http://blog.chron.com/txpotomac/2011/07/state-officials-say- lamar-smiths-e-verify-is-unworkable-and-would-cost-americans-jobs/.