

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
IMPLEMENTATION OF SB 1070 AND) Administrative Order
HB 2162, 49TH LEGISLATURE,) No. 2010 - 90
SECOND REGULAR SESSION, 2010)
)
_____)

SB 1070, entitled “Support Our Law Enforcement and Safe Neighborhoods Act,” was enacted by the 49th Legislature, second regular session. Key provisions were modified by HB 2162 enacted shortly after SB 1070. Both bills were signed by the Governor and become effective on July 29, 2010. On July 28, 2010, United States District Court Judge Susan Bolton issued a preliminary injunction enjoining the following provisions of this legislation: the enforcement of the portion of Section 2 creating A.R.S. § 11-1051(B), Section 3 creating A.R.S. § 13-1509, the portion of Section 5 creating A.R.S. § 13-2928(C), and Section 6 creating A.R.S. § 13-3883(A)(5). Consistent with the orderly administration of justice, this Order provides procedures and form changes to implement the provisions of this legislation not enjoined until such time as appropriate rule changes can be proposed, circulated for comment, and adopted by the Court.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the following procedures and form changes shall supplement existing rules and apply effective July 29, 2010:

- 1. Notification to ICE Following Sentencing.** To comply with A.R.S. § 11-1051(C), when a defendant in a criminal case is ordered to pay a fine and sufficient evidence is presented to the court that the defendant has been identified by federal authorities or a 287(g) officer as a person who is unlawfully present in the United States, the court shall include a finding of this fact in the sentencing order, and the clerk shall send a copy of the order to an ICE office identified by the Administrative Office of the Courts.
- 2. Transportation of Alien Out of State.** As required by A.R.S. § 11-1051(D), a law enforcement agency may apply for judicial authorization to transport an alien who is unlawfully present in the United States to a point of transfer outside of this state by filing a request with a court in the county where the person is located.
- 3. Rule 41. Forms.** Language changes shall be made in Rule 41, Rules of Criminal Procedure, as indicated below. Additions are indicated by underline. Deletions are indicated by ~~strikeout~~.

Form 4(a). Release Questionnaire/Law Enforcement

Add the following under Part C, "OTHER INFORMATION:"

8. Place of Birth (city, state, country) _____

Present Citizenship _____

If you are not a United States of America citizen, how long have you been in this country? _____

Add the following under Part D, "CIRCUMSTANCES OF THE OFFENSE"

7. [] Reasonable suspicion exists that the defendant is an alien and is unlawfully present in the United States

Basis for reasonable suspicion: _____

8. [] The defendant's immigration status has been verified by a federally certified law enforcement officer or by contact with United States Immigration and Customs Enforcement (ICE) or United States Customs and Border Protection (CBP) officials.

What was the response? _____

Form 4(b). Release Questionnaire/Defendant

Delete the following under "General Background," Part 1, "Background and Residence:"

Place of Birth (city, state, country) _____

Present Citizenship _____

If you are not a United States of America citizen, how long have you been in this country? _____

Dated this 28th day of July, 2010.

REBECCA WHITE BERCH
Chief Justice