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Susan S. Blum

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THE FOLLOWING ARTICLE ADDRESSES A PACKAGE OF  
IMMIGRATION BILLS THAT WOULD HAVE AFFECTED A  
VARIETY OF TITLES IN THE OFFICIAL CODE OF GEORGIA  
ANNOTATED

\* \* \*

**CONSTITUTION OF THE STATE OF GEORGIA**

***Constitutional Amendment: Propose an Amendment to the Constitution so as to Provide that Law Enforcement Agencies of the State Shall Cooperate Fully with Federal Immigration Authorities; Provide that Illegal Aliens Are Barred from Receiving Any Public Services Provided by the State or Any Political Subdivision of the State; Provide that Illegal Aliens Are Barred from Receiving Publicly Funded Health Care Services Provided by the State or Any Political Subdivision of the State; Provide that Illegal Aliens Are Barred from Access to Public Elementary and Secondary Schools of the State; Provide that Illegal Aliens Are Barred from Access to Public Postsecondary Institutions of the State; Provide that Illegal Aliens Are Barred from Obtaining Any License or Permit Issued by the State or Any Political Subdivision of the State; Provide Felony Penalties for the Manufacture, Sale, or Use of Certain Fraudulent Documents; Provide that Any Action Taken by Any Political Subdivision of the State in Violation of Such Provisions Shall Be Prohibited; Provide for the Submission of this Amendment for Ratification or Rejection; and for Other Purposes***

RESOLUTION NUMBER:

HR 256

SUMMARY:

The resolution would have proposed an amendment to the Constitution of the State of Georgia to bar undocumented immigrants from the following: receiving any public services provided by the state, receiving any publicly funded health care services provided by the state, accessing public elementary

and secondary schools of the state, and attending any public postsecondary institution of the state. The resolution would have presented the proposed constitutional amendment to Georgia voters for ratification or rejection.

## CONTRACTS

***Contracts for Public Works: Prohibit Any Department, Agency, or Instrumentality of the State or Any Political Subdivision of the State from Entering into a Contract for the Performance of Services Within the State of Georgia Unless the Contract Provides that Only Persons Who Are Citizens or Nationals of the United States Shall Perform the Services Under the Contract or Any Subcontract Thereunder; Provide for Certain Provisions to be Included in Any Such Contracts; Prohibit Retaliation Against a Party Filing a Complaint for Violation of These Provisions; Provide for Administrative Complaints; Provide for Judicial Review; Provide for Related Matters; Provide an Effective Date; Provide for Applicability; Repeal Conflicting Laws; and for Other Purposes***

**BILL NUMBER:**

SB 169

**SUMMARY:**

The bill would have prohibited any department, agency, instrumentality, or political subdivision of the State of Georgia from entering into a contract or subcontract for services unless the contract stipulated that the people performing the services are citizens or nationals of the United States (U.S.) or noncitizens authorized under federal immigration law to work. The bill also would have provided an administrative remedy for any person injured by a

contractor's failure to stipulate in the contract that only citizens or those legally authorized to work in the U.S. would perform services. Those injured could file a written administrative complaint with the offending agency, which would have issued a final written administrative response. The bill would have applied to all contracts executed on or after July 1, 2005.

## EDUCATION

***Board of Regents Governing the University System of Georgia: Prevent Unauthorized Noncitizens from Enrolling in the University System of Georgia; Provide for Related Matters; Provide an Effective Date; Provide for Applicability; Repeal Conflicting Laws; and for Other Purposes***

**BILL NUMBER:**

SB 171

**SUMMARY:**

The bill would have prohibited any individual who is not a U.S. citizen or national, or an alien, whose terms of admission or lawful presence in the U.S. permit enrollment in an institution of postsecondary education, from enrolling in or pursuing an accredited course of study at any institution in the University System of Georgia. The bill would have applied to all applicants and students on or after July 1, 2005.

## LABOR AND INDUSTRIAL RELATIONS

***Georgia Fair Employment Act: Provide a Short Title; Define Terms; State Certain Legislative Findings; Provide Certain Exceptions to the Act; Make Certain Discharge of Employees an Unfair Trade Practice; Authorize a Certain Cause of Action; Prohibit Certain Compensation as Certain Tax Deductions; Require Suspension of Certain Certificates of Incorporation Under Certain Circumstances; Require Participation in Certain Programs as Condition for Certain Contracts or Grants; Provide for Construction of the Act; Provide for Other Related Matters; Provide an Effective Date; Repeal Conflicting Laws; and for Other Purposes***

BILL NUMBER:

SB 336

SUMMARY:

The bill would have established the Georgia Fair Employment Act, which would have made it an unfair business practice in Georgia for an employer to discharge any U.S. citizen or legal permanent resident when, on the date of discharge, the employer employed an undocumented worker. The bill would have provided the discharged employee a private cause of action against the employer for unfair trade practice. The bill also would have prohibited compensation provided to any undocumented worker from being a business expense deduction from any income or business taxes. The State would have suspended the certificate of incorporation of any corporation operating in Georgia in violation of the Act. The bill also would have mandated that any business awarded a contract or grant by the state must enroll and

participate in the Basic Pilot Program operated by the Department of Homeland Security.

## MOTOR VEHICLES AND TRAFFIC

***Department of Motor Vehicle Safety: Create a Procedure for Verifying Any Claim of Legal Domicile or Residence in Georgia for Any Purpose for Which Legal Residence or Domicile Is Required by Law; Provide for Exceptions; Provide for a List of Valid Identification Documents; Provide for the Promulgation of Regulations; Provide for Penalties; Provide for Judicial Review; Provide for Related Matters; Provide an Effective Date; Provide for Applicability; Repeal Conflicting Laws; and for Other Purposes***

**BILL NUMBER:**

SB 170

**SUMMARY:**

The bill would have enabled the Georgia Department of Motor Vehicle Safety (DMVS) to verify any claim of legal domicile or residence in the state. The bill also would have authorized any agency or political subdivision that discovered a person who failed to establish lawful presence in the U.S. to report the person to the DMVS and the U.S. Department of Homeland Security.

## MOTOR VEHICLES AND TRAFFIC

***Drivers' Licenses: Require All Applicants for Drivers' Licenses to Present Valid Documentary Evidence of United States Citizenship or Legal Immigrant Status; Provide for Temporary Resident Status; Provide for Temporary Licenses, Permits, or Identification Cards in Some Situations; Provide for Renewal; Provide for Related Matters; Provide an Effective Date; Provide for Applicability; Repeal Conflicting Laws; and for Other Purposes***

**BILL NUMBER:**

SB 172

**SUMMARY:**

The bill would have prohibited the DMVS from issuing an original license, permit, or special identification card to undocumented immigrants. The bill also would have authorized the DMVS to issue a temporary license, permit, or special identification card valid only during the period of time the applicant was authorized to stay in the U.S. or for a period of one year if there was no definite end to the alien's authorized stay. The renewal of the temporary license, permit, or special identification card could have occurred only if the applicant presented valid proof that the Bureau of Citizenship and Immigration Services of the Department of Homeland Security extended the alien's status. The bill would have applied to all licenses, permits, or special identification cards issued on or after July 1, 2005.

## History

Senator Chip Rogers of the 21st district introduced a package of bills that focused on discouraging illegal immigrants from residing in Georgia.<sup>1</sup> Senator Sam Zamarripa of the 36th district stated that Senator Rogers was “oversimplifying national policy,” and using the bills that focused on undocumented immigrants to “bring out the worst emotions in people—fear and intolerance.”<sup>2</sup> Introduced by Representative Roger Williams of the 4th district, HR 256 joined Senator Rogers’s five senate bills—SB 169, SB 170, SB 171, SB 172 and SB 336—to complete the legislation attempting to reduce or eliminate undocumented immigration.<sup>3</sup>

Over the past decade, thousands of undocumented immigrants have settled in the metropolitan Atlanta area, fueling one of the most contentious political issues facing the region.<sup>4</sup> According to the U.S. Census Bureau, from 2000 to 2003 the Hispanic population in metro Atlanta increased by 30% to more than 350,000 people.<sup>5</sup> The federal government estimates that another 300,000 undocumented immigrants reside in Georgia.<sup>6</sup>

By introducing the five bills that target undocumented immigrants, Senator Rogers aspired “to make Georgia no longer a magnet for illegal immigrants.”<sup>7</sup> But opponents of the legislation, like Jerry Gonzalez, Executive Director of the Georgia Association of Latino Elected Officials (GALEO), criticized it “as a misguided, piecemeal response to a national problem.”<sup>8</sup>

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1. Interview with Sen. Chip Rogers, Senate District. No. 21, in Atlanta, Ga. (Mar. 16, 2005) [hereinafter Rogers Interview].

2. Interview with Sen. Sam Zamarripa, Senate District. No. 36, in Atlanta, Ga. (Mar. 16, 2005) [hereinafter Zamarripa Interview].

3. See Jerry Gonzalez, Georgia Association of Latino Elected Officials, *HR-256 is Bad for Georgia* (Mar. 1, 2005), [http://galeo.org/story.php?story\\_id=000000162](http://galeo.org/story.php?story_id=000000162); Sonji Jacobs, *4 Bills Target 'Illegals' in State; Proposals Deal with Driver's Licenses, Social Services, College Courses, Work on State Contracts*, ATLANTA J. CONST., Feb. 12, 2005, at E1, available at <http://www.ajc.com/metro/content/metro/legis05/0205/12legalien.html>.

4. See Mike King, Editorial, *Frank Talk on Illegal Immigrants*, ATLANTA J. CONST., Feb. 3, 2005, at A15, available at <http://www.ajc.com/hp/content/opinion/king/2005/020305.html>.

5. See Dan Chapman, *Immigration Battle Brews: GOP Walks a Tightrope on Illegals*, ATLANTA J. CONST., Feb. 19, 2005, at B1, available at [http://www.ajc.com/hp/content/auto/epaper/editions/saturday/news\\_24614ef5f310407500ab.html](http://www.ajc.com/hp/content/auto/epaper/editions/saturday/news_24614ef5f310407500ab.html).

6. See *id.*

7. *Id.*

8. *Id.*



*Legislative Tracking*

The Senate read SB 169, SB 170, SB 171, and SB 172 on February 14, 2005 and SB 336 on March 11, 2005 and referred the bills to the appropriate committees.<sup>9</sup> The House read HR 256 for a second time on February 18, 2005 and then sent it to committee.<sup>10</sup> None of the Senate or House Committees held hearings on the proposed legislation or voted the bills out of committee.<sup>11</sup>

Senator Rogers intended the 2005 Session to educate legislators and citizens about the illegal immigration legislation and to begin a dialogue about the issues that drove him to introduce the legislation.<sup>12</sup> The Senator stated that the bills have “gained a lot of attention,” and he will “work through [the] summer and through the fall” to continue the education process and will push for the bills next session.<sup>13</sup>

*SB 169*

Senators Chip Rogers, Chip Pearson, Mitch Seabaugh, Casey Cagle, and Nancy Schaefer of the 21st, 51st, 28th, 49th, and 50th districts, respectively, sponsored SB 169.<sup>14</sup> The Senate first read the bill on February 14, 2005 and referred it to the State and Local Governmental Operations Committee.<sup>15</sup> The Committee did not hold a hearing on SB 169 and did not vote the bill out of committee.<sup>16</sup>

Title 13, Chapter 10 of the Georgia Code relates to contracts for public works and comprises two sections.<sup>17</sup> SB 169 would have amended the Code by adding a new section to prohibit any state department, agency, or political subdivision from entering a contract for services within the State of Georgia unless the contract stipulated that only persons who are U.S. citizens, nationals, or non-citizens

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9. See State of Georgia Final Composite Status Sheet, SB 169, SB 170, SB 171, and SB 172, Feb. 14 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet SB 336, Mar. 11, 2005 (May 11, 2005).

10. State of Georgia Final Composite Status Sheet, HR 256, Feb. 18, 2005 (May 11, 2005).

11. *Id.*

12. See Rogers Interview, *supra* note 1.

13. *Id.*

14. See SB 169, as introduced, 2005 Ga. Gen. Assem.

15. See State of Georgia Final Composite Status Sheet, SB 169, Feb. 14, 2005 (May 11, 2005).

16. See State of Georgia Final Composite Status Sheet, SB 169 (May 11, 2005).

17. 2001 Ga. Laws 820, § 1, at 820 (codified at O.C.G.A. §§ 13-10-1 to -83 (Supp. 2005)).

authorized under federal immigration law would perform the services under the contract or any subcontract.<sup>18</sup>

### *SB 170*

Senators Chip Rogers, Chip Pearson, Casey Cagle, Nancy Schaefer, and John Douglas of the 21st, 51st, 49th, 50th, and 17th districts, respectively, sponsored SB 170.<sup>19</sup> The Senate first read the bill on February 14, 2005 and referred it to the Public Safety and Homeland Security Committee.<sup>20</sup> The Committee did not hold a hearing on SB 170 and did not vote the bill out of committee.<sup>21</sup>

Title 40, Chapter 16 of the Georgia Code relates to the administration of the Georgia DMVS.<sup>22</sup> SB 170 would have amended section 2 by adding three new code sections.<sup>23</sup> As introduced, the bill would have required the DMVS to verify any claim of residency in Georgia in order to prevent undocumented immigrants from being able to access social services, including food stamps and health care.<sup>24</sup>

### *SB 171*

Senators Chip Rogers, Greg Goggans, Casey Cagle, Nancy Schaefer and John Douglas of the 21st, 7th, 49th, 50th and 17th districts, respectively, sponsored SB 171.<sup>25</sup> The Senate first read the bill on February 14, 2005 and referred it to the Higher Education Committee.<sup>26</sup> The Committee did not hold a hearing on SB 171 and did not vote the bill out of committee.<sup>27</sup>

SB 171 would have amended Title 20, Chapter 3 of the Georgia Code, which relates to the Board of Regents governing the University System of Georgia, by adding a new code section to read as follows:

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18. See SB 169, as introduced, 2005 Ga. Gen. Assem.

19. See SB 170, as introduced, 2005 Ga. Gen. Assem.

20. See State of Georgia Final Composite Status Sheet, SB 170, Feb. 14, 2005 (May 11, 2005).

21. See State of Georgia Final Composite Status Sheet, SB 171 (May 11, 2005).

22. 2000 Ga. Laws 951, § 1-1, at 952 (codified at O.C.G.A. § 40-16-2 (Supp. 2005)).

23. See SB 170, as introduced, 2005 Ga. Gen. Assem.

24. See Chapman, *supra* note 5.

25. See SB 171, as introduced, 2005 Ga. Gen. Assem.

26. See State of Georgia Final Composite Status Sheet, SB 171, Feb. 14, 2005 (May 11, 2005).

27. See State of Georgia Final Composite Status Sheet, SB 171 (May 11, 2005).

No individual shall be enrolled or otherwise pursue an accredited course of study at an institution in the University System of Georgia who is not a United States citizen or national, or is not, under federal immigration law, an immigrant alien or an alien whose terms of admission or lawful presence in the United States permits enrollment in an institution of postsecondary education.<sup>28</sup>

The bill would have prevented undocumented immigrants from enrolling in accredited courses at Georgia's 34 public colleges and universities.<sup>29</sup>

### *SB 172*

Senators Chip Rogers, Chip Pearson, Mitch Seabaugh, Casey Cagle, and Nancy Schaefer of the 21st, 51st, 28th, 49th, and 50th districts, respectively, sponsored SB 172.<sup>30</sup> The Senate first read the bill on February 14, 2005 and referred it to the Public Safety and Homeland Security Committee.<sup>31</sup> The Committee did not hold a hearing on SB 172 and did not vote the bill out of committee.<sup>32</sup>

SB 172 would have amended Title 40, Chapter 5 of the Georgia Code relating to the issuance, expiration, and renewal of drivers' licenses by adding a new code section after section 21.<sup>33</sup> As introduced, the bill would have limited the DMVS to issuing drivers' licenses, permits, or special identification cards only to U.S. citizens, legal permanent residents, or conditional resident aliens with valid documentary evidence.<sup>34</sup> The bill effectively would have prohibited undocumented immigrants from obtaining drivers' licenses.<sup>35</sup>

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28. SB 171, as introduced, 2005 Ga. Gen. Assem.

29. *See* Chapman, *supra* note 5.

30. *See* SB 172, as introduced, 2005 Ga. Gen. Assem.

31. *See* State of Georgia Final Composite Status Sheet, SB 172, Feb. 14, 2005 (May 11, 2005).

32. *See* State of Georgia Final Composite Status Sheet, SB 172 (May 11, 2005).

33. SB 172, as introduced, 2005 Ga. Gen. Assem.

34. *See id.*

35. *See* Chapman, *supra* note 5.

*SB 336*

Senators Chip Rogers, Chip Pearson, Mitch Seabaugh, Casey Cagle, Nancy Schaefer, and John Douglas of the 21st, 51st, 28th, 50th, and 17th districts, respectively, sponsored SB 336.<sup>36</sup> The Senate first read the bill on March 11, 2005 and referred it to the Insurance and Labor Committee.<sup>37</sup> The Committee did not hold a hearing on SB 336 and did not vote the bill out of committee.<sup>38</sup>

SB 336 would have amended Title 34 of the Georgia Code relating to labor and industrial relations by adding a new chapter, which would have been known as the Georgia Fair Employment Act.<sup>39</sup> As introduced, the bill would have suspended any business's certificate of incorporation that violated the Act.<sup>40</sup> A business would have violated the Act if the employer discharged an employee who was a U.S. citizen or legal permanent resident when, on the date of discharge, the employer employed an undocumented worker, or the employer claimed as a tax deduction any compensation in money or in-kind services to an undocumented worker.<sup>41</sup>

*HR 256*

Representatives Roger Williams, Bobby Franklin, Ronald Forster, Martin Scott, and Jeanette Jamieson of the 4th, 43rd, 3rd, 2nd, and 28th districts, respectively, sponsored HR 256.<sup>42</sup> The House read the resolution for the second time on February 18, 2005 and referred it to the Interstate Cooperation Committee.<sup>43</sup> The Committee did not hold a hearing on HR 256 and did not vote the resolution out of committee.<sup>44</sup>

HR 256 proposed an amendment to the Georgia Constitution by inserting a new paragraph at the end of Article I, Section 3 that would have barred undocumented immigrants from accessing all public

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36. See SB 336, as introduced, 2005 Ga. Gen. Assem.

37. See State of Georgia Final Composite Status Sheet, SB 336, Mar. 11, 2005 (May 11, 2005).

38. See State of Georgia Final Composite Status Sheet, SB 336 (May 11, 2005).

39. See SB 336, as introduced, 2005 Ga. Gen. Assem.

40. *Id.*

41. *Id.*

42. See HR 256, as introduced, 2005 Ga. Gen. Assem.

43. See State of Georgia Final Composite Status Sheet, HR 256, Feb. 18, 2005 (May 11, 2005).

44. See State of Georgia Final Composite Status Sheet, HR 256 (May 11, 2005).

services in Georgia.<sup>45</sup> If passed, the resolution would have been submitted for voters' approval, appearing on the ballot with the following language:

Shall the Constitution of Georgia be amended so as to provide that law enforcement agencies of the state shall cooperate fully with federal immigration authorities; to provide that illegal aliens are barred from receiving any public services or public health care services, from access to public elementary and secondary schools, from access to public postsecondary institutions, and from obtaining any license or permit; and to provide felony penalties for the manufacture, sale, or use of certain fraudulent documents?<sup>46</sup>

### *Analysis*

#### *Opposing Sides*

The conflicting views of the supporters and opponents of this slate of immigration bills typify the debate on immigration that is raging across the country.<sup>47</sup> Senator Chip Rogers, the legislation's sponsor, believes the state must become involved in immigration policy because the federal government's decision not to enforce immigration laws affects the state and costs Georgians too much money.<sup>48</sup> Senator Rogers says the continual influx of illegal immigrants to Georgia creates the reality that the state is "following a policy of importing poverty that the state cannot maintain" because of the state's finite resources.<sup>49</sup> Senator Rogers's purposes in introducing the legislation were to have the state fill in because of the federal government's refusal to enforce immigration policy, to prevent Georgia from being a magnet for illegal immigration, and "to achieve a secure Georgia that is properly allocating resources to its citizens."<sup>50</sup>

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45. See HR 256, as introduced, 2005 Ga. Gen. Assem.

46. *Id.*

47. See generally Rogers Interview, *supra* note 1; Zamarripa Interview, *supra* note 2.

48. See *Lou Dobbs Tonight* (CNN television broadcast Mar. 7, 2005). The Senator said that it cost the State of Georgia \$231,000,000 in 2002 to educate illegal immigrants. *Id.*

49. Rogers Interview, *supra* note 1.

50. See *id.*

Senator Sam Zamarripa, on the other hand, contends that Senator Rogers's legislation oversimplifies national policy and that Georgia has no prudent authority over federal immigration policy.<sup>51</sup> He, like many other supporters of immigration reform, sees the legislation as a piecemeal attempt to influence and effectuate federal immigration law.<sup>52</sup> Senator Zamarripa believes it would be in Georgia's best interest to support comprehensive immigration reform on the national level and that by interjecting the state into the problems associated with immigration, Senator Rogers is targeting Latinos, grandstanding on the backs of those who are poor and uneducated, and fostering fear and intolerance.<sup>53</sup>

### *Unintended Consequences*

The unintended consequences of this legislation, if passed, would have been harsh and costly to the state.<sup>54</sup> In general, this type of legislation would have required state personnel to be trained and educated in federal immigration law.<sup>55</sup> For example, SB 171 would have attempted to change the mission of the University System of Georgia from educating its citizens and promoting access to higher education to enforcement of federal immigration laws.<sup>56</sup>

Furthermore, if SB 172 passed and illegal immigrants could not obtain valid drivers' licenses, undocumented workers would continue to drive to attend to basic needs, like getting to school, work, or health care.<sup>57</sup> Thus, the bill's passage would jeopardize highway safety for all Georgians, as the restrictions would have resulted in more unlicensed and uninsured individuals using Georgia's roads and highways.<sup>58</sup> In addition, SB 172 would have impeded law

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51. See Zamarripa Interview, *supra* note 2.

52. *Id.*; see also Chapman, *supra* note 5.

53. See Zamarripa Interview, *supra* note 2; Georgia Association of Latino Elected Officials, 2005 GALEO Legislative Agenda (Jan. 27, 2005), [http://www.galeo.org/agenda.php?agenda\\_id=0000000004](http://www.galeo.org/agenda.php?agenda_id=0000000004).

54. See Zamarripa Interview, *supra* note 2 (emphasizing that some of Georgia's large businesses have been the largest recruiters of undocumented workers); Jacobs, *supra* note 3 (explaining some critics believe this legislation is the wrong solution to a complex problem and makes Georgia less safe).

55. See American Immigration Lawyers Association, *Immigrants' Access to Driver's Licenses: A Matter of Safety and Security* (June 20, 2005), <http://www.aila.org/content/default.aspx?docid=8390> [hereinafter AILA].

56. See generally Jacobs, *supra* note 3.

57. See AILA, *supra* note 55.

58. *Id.*

enforcement and national security because state drivers' license databases play a central role in law enforcement.<sup>59</sup> Finally, the production and sale of falsified documents likely would have increased since drivers' licenses would become de facto immigration documents needed to establish lawful status.<sup>60</sup>

### *Economic Concerns*

The legislation's sponsor seems to ignore the economic reality that its passage would have had on the business community and economy since many of Georgia's businesses rely on low-wage unauthorized labor.<sup>61</sup> To deal effectively with immigration, those who support the passage of such legislation would have to take on their biggest supporters—businesses that have depended on and recruited the largest number of undocumented workers.<sup>62</sup>

On the other hand, Senator Rogers introduced the legislation because he wanted "to create a level playing field for all employers."<sup>63</sup> He expressed that companies that are violating the law by employing undocumented workers are at an economic advantage because of the "subsidized labor" they receive, and it is unfair for Georgia taxpayers to have to pay more taxes because some businesses break the law.<sup>64</sup>

### *Constitutional Issues*

If passed, HR 256 likely would have faced a constitutional challenge because its denial of undocumented children from public schools could be in violation of the Fourteenth Amendment's Equal Protection Clause, as occurred in the Supreme Court case of *Plyler v. Doe*.<sup>65</sup> The issue in *Plyler* was whether, consistent with equal

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59. See *id.* (permitting non-citizens to obtain drivers' licenses facilitates domestic intelligence efforts by allowing law enforcement to obtain and verify information on foreign nationals).

60. *Id.*

61. See Cynthia Tucker, Editorial, *My Opinion: We Don't Really Oppose Illegals*, ATLANTA J. CONST., Feb. 20, 2005, at C6, available at <http://www.ajc.com/opinion/content/opinion/tucker/2005/022005.html>.

62. *Id.*; see also Zamarripa Interview, *supra* note 2.

63. See Rogers Interview, *supra* note 1.

64. *Id.*; see *Lou Dobbs Tonight* (CNN television broadcast Mar. 7, 2005).

65. 457 U.S. 202 (1982).

protection, “Texas may deny to undocumented school-age children the free public education that it provides to children who are citizens of the United States or legally admitted aliens.”<sup>66</sup> The Court found “education has a fundamental role in maintaining the fabric of our society,” and the State showed no substantial interest in denying the children a public education, the Court did not permit the State to continue to exclude immigrant’s children from public education.<sup>67</sup> Similarly, HR 256 would have denied undocumented children the free public education Georgia provides to U.S. citizens or those with legal status, and it could have been found unconstitutional.<sup>68</sup>

*Susan S. Blum*

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66. *Id.* at 205.

67. *Id.* at 221.

68. *See id.*; HR 256, as introduced, 2005 Ga. Gen. Assem.