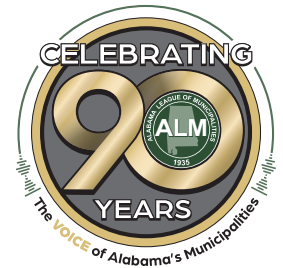


Law Enforcement Requirement to Collect Fingerprints and DNA from Illegal Aliens in Custody

Act 2025-306, mandating that law enforcement collect fingerprints and DNA from illegal aliens in custody and submit them for testing or cataloging, **became effective June 1, 2025**. This report, created by the Alabama League of Municipalities, is intended to provide a summary of this legislation and to address potential issues that may arise in its implementation.



SUMMARY OF LEGISLATION

Act 2025-306 amends Sections 31-13-3 and 36-18-32, Code of Alabama 1975, and adds Section 31-13-36, Code of Alabama 1975, as follows:

Amended Section 31-13-3, Code of Alabama 1975, “Definitions”

- Adds the definition, “(9) ILLEGAL ALIEN. An alien who is not lawfully present in the United States under any federal law, regulation, order, or directive.”

Amended Section 36-18-32, Code of Alabama 1975, “DNA Database Fund”

- Increases the fee assessed in “criminal cases, in bond forfeiture proceedings, and upon the issuance of any alias or capias warrant of arrest” from twelve dollars (\$12) to fifteen dollars (\$15).
- For the rest of FY 2025, eleven dollars (\$11) of these fees will go to the Alabama DNA Database Fund.
- For FY 2026 and thereafter, fourteen dollars (\$14) of these fees will go to the Alabama DNA Database Fund.

Section 31-13-36, Code of Alabama 1975

- A law enforcement agency is required to collect (1) a full set of fingerprints and (2) a known DNA reference sample from an individual prior to any release when the following two conditions are **both** met:
 - The individual is an “illegal alien,” and
 - The individual is in the agency’s “custody.”
- Once collected, the law enforcement agency must submit:
 - Fingerprints to the Alabama State Law Enforcement Agency (“ALEA”), and
 - The known DNA reference sample to the Alabama Department of Forensic Sciences (“DFS”).



POTENTIAL ISSUES

How does a law enforcement agency determine whether an individual is an “illegal alien” as defined in Act 2025-306?

- **Section 31-13-12(a), Code of Alabama 1975**, provides the procedure a law enforcement officer is to use while making “any lawful stop, detention, or arrest . . . in the enforcement of any state law or [municipal] ordinance.”
 - Note that a law enforcement officer is prohibited from independently determining whether an individual is an “illegal alien.” Section 31-13-12(c), Code of Alabama 1975.
- **Section 31-13-12(b), Code of Alabama 1975**, provides the procedure when an “alien is arrested and booked into *custody*.”
- **Section 31-13-18, Code of Alabama 1975**, provides the procedure when “an individual [is] charged with a crime for which bail is required or is confined for any period in a state, county, or municipal jail.”

When is an illegal alien in “custody” of a law enforcement agency such as to require the collection of fingerprints or DNA?

- **Section 31-13-12, Code of Alabama 1975**, contains provisions for when an alien is “arrested and booked into custody.”
- It therefore appears that the Legislature intended that, for the purposes of Illegal Immigration (Chapter 13 of Title 31), “custody” refers to the period of confinement after an individual is “arrested and booked” into a state, county, or municipal jail.

Law Enforcement Requirement to Collect Fingerprints and DNA from Illegal Aliens in Custody *(continued)*

How will Act 2025-453 change the requirements of Act 2025-306 when it goes into effect on October 1?

- Act 2025-453, among other things, amends Sections 31-13-12 and 31-13-18, Code of Alabama 1975.
- The most significant changes to these sections concern the case when an individual is “arrested and booked into custody,” in which Section 31-13-12(b) will point to Section 31-13-18 as the sole governing statute.
- **Amended Section 31-13-18, Code of Alabama 1975** will require the “administrator of the [jail], or his or her designee” to determine if an individual in its custody is an “illegal alien” by (1) asking the individual, (2) looking at “relevant documents,” or (3) both.
 - This may create tension with Section 31-13-12(c), which prohibits a law enforcement officer from “independently [making] a final determination” of whether an individual is an illegal alien.
 - Further, Act 2025-453 does not define what constitutes a “relevant document.”
 - These issues will have to ultimately be resolved by either the courts or future legislation.
 - **Consult your municipal attorney or prosecutor on how to best proceed in the meantime.**
- Act 2025-453 will not likely change the determination for when an illegal alien is in “custody,” as previously addressed.

Act 2025-306 went into effect June 1, 2025.

For a copy of the law,
visit: <https://arc-sos.state.al.us/ucp/L1827133.All.pdf> or scan the QR code.



If you have further questions about the implementation or interpretation of this act, feel free to contact the League’s legal department at (334) 262-2566.

If you have further questions about fingerprinting requirements, please contact the Alabama Law Enforcement Agency (ALEA) at (334) 676-7700 or icu@alea.gov