

Column 35

From the Bench and Beyond

Retired District Judge Janice P. Dreiling

Oklahoma's New Immigration Law: Part 5

November 1, 2007, House Bill 1804 becomes Oklahoma law. Entitled the Oklahoma Taxpayer and Citizen Protection Act of 2007, this piece of legislation relates to the difficult problem and controversial subject of illegal immigration.

Section 8 of the bill sets forth in two and a half pages the "public benefits" to which illegal immigrants and their children will and will not be eligible once HB 1804 goes into effect.

With certain specific exceptions (which are included in the second to the last paragraph below), Subsection A of Section 8 states as follows: "...every agency or a political subdivision of this state shall verify the lawful presence in the United States of any natural person fourteen (14) years of age or older who has applied for state or local public benefits, as defined in Title 8 of the United States Code, Section 1621, or for federal public benefits, as defined in Title 8 of the United States Code, Section 1611, that is administered by an agency or a political subdivision of this state."

Let's break that down.

"Every agency or a political subdivision of this state" includes city and county governmental entities, school districts, DHS, and just about any entity you can think of that is funded by tax money.

"Any natural person FOURTEEN years of age or older" obviously includes minor children ages 14, 15, 16, and 17. Putting that in a personal context, I had my 14<sup>th</sup> birthday when I was in the 9<sup>th</sup> grade. I wasn't old enough to drive. I still relied upon my parents for almost everything I needed. And, if a form needed to be signed authorizing or applying for anything at school or elsewhere, my parents had to sign for me.

"State or local public benefits," as defined in Section 1621 of Title 8 of the United States Code is as follows: (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government."

State or local public benefits could include reduced (or free) lunch benefits at school for children whose families earn under a certain amount. They could include Sooner Care (health and medical services for children who qualify). They could include Medicaid funds and food stamps, both of which are distributed through the Department of Human Services.

A “federal public benefit” is defined in Title 8, Section 1611 of the United States Code exactly as “state or local public benefits” above except the benefit is provided by an agency of the United States or by appropriated funds of the United States.

I confess my bias. It’s the minor children 14, 15, 16, and 17. On the one hand, if they came to the United States as children with their parents who are illegal, then they are illegal as well. On the other hand, if they were born in the United States to illegal aliens, the children are citizens of the United States and would be entitled to benefits if their illegal parents are brave enough to risk deportation to apply for benefits for their children.

And with all due respect to the wording of Subsection A (above) that includes the language, “...any natural person 14 years of age or older who has applied for state or local public benefits...,” children 14, 15, 16, and 17 don’t apply for state or local public benefits. Their parents have to apply for them. And, the benefit applied for is based upon the income of the household in which the child resides.

For the sake of a simple example, assume the 14 year old entered the United States illegally with his/her parents. HB 1804 makes the child ineligible for benefits, state, local, or federal.

The exceptions are (1) emergency health care, (2) short-term, non-cash, in-kind emergency disaster relief, (3) immunizations for communicable diseases, and (4) soup kitchens and short-term shelter (as specified by the U.S. Attorney General!).

Do we need to punish the 14, 15, 16, and 17 year old children?