

From cops to courts, confusion over Alabama law

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Alabama's tough new law on illegal immigration was complicated even before the courts got involved. Now that federal judges have blocked parts of the act while letting others take effect, officials say uncertainty reigns even while suspects are being arrested and jailed.

Court cases can vary from one place to the other, depending on how local police apply the law to arrest suspects. Once those suspects get to court, the handling of their cases can vary from judge to judge in the state's more than 450 trial courts at the municipal and county level.

"There's a whole lot of confusion about the law and what we should do about it," said Judge Scott Vowell, a circuit judge in Birmingham's Jefferson County and president of the Alabama Circuit Judges Association.

He said he has a list of troubling reports: In some areas, police are setting up roadblocks near mobile home communities where Hispanic people live. One municipal judge opened court by saying that anyone without a driver's license would be arrested under the law. Another judge told spectators that the need for a translator could be considered evidence against someone.

Other cases of mixed signals are easy to find.

In the north Alabama city of Decatur, four people were arrested on charges of failing to have proper documents and pleaded guilty within hours under a part of the law a federal court has since struck down. The same day in Jemison, a judge threw out a similar charge against a man because the defendant already was free on bond from a federal immigration court.

Court administrators' interpretation of a key part of the law was challenged by a judge in one instance, and a lawyer tried and failed to use the month-old law to throw out a contract reached in May 2010 between a car seller and two purchasers who were living in the country illegally.

Alabama's top law enforcement official, Attorney General Luther Strange, said many people who are uncertain about the law haven't even read it. While some say the federal court decisions added to the confusion, Strange said they may have instead helped by placing some sections on hold.

"I think it will give people a chance to take a breath and read the provisions," said Strange, whose office is defending the act in court.

State officials are trying to clear up some of the questions through training that began only after the law took effect. The Administrative Office of Courts has sent memos and emails to judges

explaining the law, and the Alabama Department of Homeland Security provided an overview for police at a meeting organized by Strange's office.

On Friday, the Alabama District Attorneys Association will hold a meeting for prosecutors in hopes of developing a blueprint for statewide training for law enforcement. Executive director Randy Hillman said many local agencies still aren't enforcing the law because of uncertainty over exactly what it says.

"Right now people don't know how to apply it," Hillman said. "We're feeling our way. It's not that it's not doable, it's just that it's difficult."

Susan Fuqua, the head of a state organization for municipal court officials, said training sessions and legal advice from Montgomery help, but courts constantly disagree over how to enforce laws. Court rulings yet to come could complicate the situation even further, she said.

"There are over 170 municipal courts in Alabama. There are judges there, and they might be on different pages on how to handle it. Are they all in agreement? I can't answer that," said Fuqua, president of the Alabama Municipal Court Clerks and Magistrates Association.

Passed by the Republican-controlled Legislature and signed by GOP Gov. Robert Bentley, the 72-page, 34-section law is considered the nation's toughest crackdown on illegal immigration by both supporters and opponents. It covers a wide range of everyday life, from making it illegal to give an illegal immigrant a ride and requiring schools to check students' citizenship status to barring contracts with illegal immigrants and making them carry documents.

The law originally was set to take effect Sept. 1, but U.S. District Judge Sharon Blackburn blocked implementation while considering challenges from the Justice Department, immigrant rights groups, religious leaders and others. She finally let some sections take effect on Sept. 29 but blocked others, and the 11th U.S. Circuit Court of Appeals then blocked more of it this month.

As lawyers sorted through the court opinions, some police agencies delayed enforcement. Fuqua said police haven't filed any cases in the municipal court she oversees in the Birmingham suburb of Hoover, but other cities already are prosecuting people.

The four illegal immigrants arrested in Decatur during a pair of traffic stops pleaded guilty on Oct. 10 within hours of their detention under a section of the law that created a misdemeanor offense for anyone who was in the country illegally and failed to carry an alien registration document.

Each was ordered to pay \$296 in fines and fees and transferred to the custody of federal immigration officials, even though the 11th U.S. Circuit Court of Appeals blocked enforcement of that section of the law four days later.

Municipal court officials said none of the four appealed their convictions, but a defense attorney who represented them did not return messages seeking comment.

Meanwhile, a judge in the central town of Jemison was throwing out the case against a man who was arrested on a similar charge of failing to have documents. His lawyer, Freddy Rubio, argued that the law was unclear and his client was legally in the United States because he was free on bond while challenging a deportation order from a federal immigration judge.

Rubio, an American Civil Liberties Union board member who is part of the coalition challenging the new law, said he has spent years representing immigrant clients yet still isn't sure exactly which parts of the law are now in effect and exactly what they mean.

"It's a mess. It was so big, no one is sure what it is now," he said.

Vowell, the head of the judges' association, agrees.

"Judges need to make an effort to apply the law the same around the state, and that's certainly difficult because of the ambiguity of the law and the opinions that have been issued by the federal courts that have addressed the law," he said. "Some of it will just have to be addressed on a case-by-case basis."

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