

# Tennessee legislators push bill to track immigrant students in bid to overturn universal right to public education

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The Tennessee House Finance, Ways & Means Subcommittee advanced legislation this week requiring every public school to collect and report data on students' citizenship or immigration status.

The proposed bill, drafted under the direction of the extreme-right Heritage Foundation, would set a national precedent. Its aim is to intimidate immigrant families, drive down school enrollment, and prepare the legal and bureaucratic groundwork to overturn the Supreme Court's 1982 *Plyler v. Doe* ruling, which upholds the right of every child, regardless of immigration status, to free public education.

The measure would compel schools to establish a database on immigrants and their families, essentially making them a data-collection agency for deportation.

The measure will now go to the House floor for debate, while the companion bill, SB 836, is moving through the state Senate. The original language of these bills would have allowed districts and charter schools to deny enrollment to children deemed "unlawfully present" or to charge them tuition equal to the district's per-pupil cost. In other words, students unable to produce proof of lawful presence would be barred unless their families paid thousands of dollars, effectively transforming public schools into semi-privatized institutions policing borders for the state.

After an outcry from immigrant families, educators, civil rights organizations and even warnings from the legislature's own fiscal analysts that the bill likely violates *Plyler* and threatens hundreds of millions of dollars in federal funding, the politicians have temporarily backed away from explicit denial of enrollment and tuition requirements.

But the so-called compromise is no retreat. HB 793 now compels schools to ask every family to disclose the child's citizenship or immigration status, store that information locally, and send aggregate reports to state officials and a specialized immigration enforcement office.

Lawmakers and right-wing think tank figures have repeatedly described Tennessee's legislation as a way to "measure the cost" of educating undocumented children and to "lay the groundwork" for challenging *Plyler*, making clear that the ultimate goal remains the same even if outright exclusion has been delayed.

## *Plyler v. Doe* and the right to education

In 1982, the Supreme Court's decision in *Plyler v. Doe* held that states cannot deny undocumented children access to K-12 public education, ruling that the Fourteenth Amendment's equal protection clause applies to "anyone, citizen or stranger, who is subject to the laws of a State and reaches into every corner of a state's territory."

Justice William Brennan warned that denying these children schooling would have an "inestimable toll" on their social, economic, intellectual and psychological development and cause a "lifetime hardship" marked by the stigma of illiteracy. He concluded that any minimal "savings" claimed were far outweighed by the harm to the children and society as a whole.

*Plyler* thus affirmed three core principles: that all children physically present in a state are entitled to equal protection, that children cannot be held responsible for their parents' actions, and that public education is essential to participation in civic life, regardless of citizenship.

Tennessee's insistence on collecting immigration status data on all students is precedent-setting. The closest analogue is Alabama's H.B. 56, passed in 2011, which required schools to determine the immigration status of all newly enrolling students and to submit annual reports to the state on the number of undocumented children.

In 2012, the US Court of Appeals for the Eleventh Circuit

struck down that provision after evidence showed it had a devastating chilling effect, causing Hispanic enrollment and attendance to plummet, and clearly deterring immigrant families from sending their children to school, in violation of Plyler’s guarantees.

Civil rights organizations have since treated Alabama’s experience as a warning that school-based immigration data collection is inherently coercive and functionally indistinguishable from direct exclusion, because it brands undocumented children and families as targets and conditions their presence in school on revealing highly sensitive information.

For more than a decade, federal guidance and legal advocacy have stressed that schools should not ask about or record students’ immigration status and should limit documentation to proof of age, residency and similar neutral criteria, precisely to avoid violating *Plyler* and federal civil rights law.

Tennessee politicians are now attempting to resurrect and expand this discredited model on a statewide basis, with mandatory participation, reporting names to an immigration office, and an explicit political agenda to build a test case against *Plyler*—going beyond the already-condemned Alabama template.

By early 2025, Republicans in at least five states—Tennessee, Oklahoma, Indiana, Texas and Utah—had introduced measures to deny enrollment, demand tuition, or conduct censuses of “unlawfully present” students explicitly aimed at provoking a challenge to *Plyler*.

The assault on immigrant students’ rights is not confined to Republican strongholds. The New Jersey PLYLER Act, introduced by a Republican but in a Democratic-dominated state, openly demands that undocumented children pay tuition and calls for a legal challenge to *Plyler*, blaming the ruling for supposed “billions” in education costs and echoing the xenophobic rhetoric of Heritage’s Project 2025

Since then, the front has widened. An *Education Week* analysis in late 2025 found *Plyler*-challenging efforts in at least seven states overall, some stalled and some still active, with proposals ranging from tuition mandates for non-citizens to enrollment rules requiring proof of citizenship or legal status as a condition of access to public schools.

### Tennessee’s “trigger” architecture

Even in its amended form, Tennessee’s package preserves key structural features designed to function as a “trigger” system. By normalizing immigration status questions at

enrollment and routing data to state and immigration offices, the bill creates a ready-made mechanism that can be flipped from “anonymized reporting” to outright denial of enrollment or tuition charging as soon as federal law or Supreme Court precedent changes.

In this sense, the “compromise” is more dangerous than an openly exclusionary bill that might have been struck down swiftly. It stabilizes a surveillance infrastructure and everyday practice of questioning families about immigration status, while leaving the door wide open for a future legislature or court decision to weaponize that data.

The core content of the new wave of state bills, from Tennessee to Texas and New Jersey, is to transform schools into sites of surveillance and exclusion. These measures are inseparable from a broader fascist campaign of mass deportations, and the targeting of formerly “sensitive” locations such as schools and churches. Like the whole campaign of witch-hunting immigrants it aims to redirect anger over collapsing public education—produced by decades of bipartisan austerity and privatization—away from the ruling class and onto the most vulnerable, while building the legal pathways needed to destroy *Plyler* and, with it, a central pillar of modern democratic rights.

The drive to overturn *Plyler* is a direct attack on the right of the entire working class to public education. Once the precedent is established that a section of children—those without the “correct” documents—can be excluded, tracked, or charged tuition, the way is opened to further exclusions based on disability, homelessness, disciplinary status, test scores or political beliefs, turning education into a privilege reserved for those deemed “worthy” by the capitalist state.

The defense of immigrant children’s right to education cannot be entrusted to the courts, Congress or the Democratic Party, all of which have overseen and expanded the deportation regime and the dismantling of public schools. It falls to the working class itself—teachers and school workers, parents and students, autoworkers, healthcare workers and all sections of labor—to organize independently on a socialist program that insists on free, high-quality public education for all children, regardless of citizenship or immigration status, and opposes every attempt to resurrect the reactionary principle that basic rights are conditional on immigration papers.



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