

1 **SENATE FLOOR VERSION**

2 April 22, 2024

3 ENGROSSED HOUSE
4 BILL NO. 4156

5 By: McCall, Boles, Moore,
6 Williams, Hays, George,
7 Cantrell, Townley, Wallace,
8 West (Josh), Crosswhite
9 Hader, McBride, Olsen, West
10 (Kevin), Baker, Culver,
11 Staires, Sims, Lepak,
12 Maynard, Steagall, Bashore,
13 Pfeiffer, Manger, Sterling,
14 Smith, and Echols of the
15 House

16 and

17 Treat, McCortney, Woods,
18 Rogers, Prieto, Garvin, and
19 Bullard of the Senate

20 An Act relating to immigration; providing legislative
21 intent; defining term; making certain acts unlawful;
22 providing penalties; directing law enforcement
23 agencies to collect identifying information and
24 cross-reference said information with certain
databases and federal lists or classifications;
authorizing the Oklahoma State Bureau of
Investigation to collect and maintain certain
identifying information; stating legislative finding;
providing preemption provision; providing affirmative
defenses to prosecutions; making defendants charged
with or convicted of certain crimes ineligible for
probation, delayed sentencing, or community
sentencing; providing for severability; providing for
noncodification; providing for codification;
providing an effective date; and declaring an
emergency.

25 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 A. The Legislature finds and declares that protecting the
4 health, safety, welfare, and constitutional rights of its citizens,
5 authorized residents, and lawfully present visitors is of utmost
6 importance. The Legislature further finds that it has a substantial
7 and compelling interest in ensuring that the rights, privileges, and
8 immunities of its citizens, authorized residents, and lawfully
9 present visitors be protected at all costs. The Legislature
10 recognizes its duty to enact legislation that ensures the protection
11 and enhancement of these essential rights, privileges, and
12 immunities for all of its citizens, authorized residents, and
13 lawfully present visitors. The Legislature further finds that it is
14 imperative to establish measures to protect the citizens of Oklahoma
15 from potential harm caused by unauthorized persons entering or
16 residing within the state. Therefore, the Legislature declares that
17 it is a compelling public interest of this state to protect its
18 citizens, authorized residents, and lawfully present visitors and
19 its borders and to prohibit persons from entering or residing within
20 this state without proper authorization.

21 B. Further, the Legislature finds and declares that a crisis
22 exists in Oklahoma. Throughout the state, law enforcement comes
23 into daily and increasingly frequent contact with foreign nationals
24 who entered the country illegally or who remain here illegally.

1 This is particularly common in regard to illegal marijuana grow
2 operations, which have exploded in number in recent years. Often,
3 these persons are involved with organized crime such as drug
4 cartels, they have no regard for Oklahoma's laws or public safety,
5 and they produce or are involved with fentanyl distribution, sex
6 trafficking, and labor trafficking. Oklahoma agents and law
7 enforcement partners have seized countless tons of dangerous drugs
8 and arrested untold numbers of traffickers, many of whom entered
9 without authorization through our southern border. This crisis of
10 unauthorized entry and presence is endangering Oklahomans,
11 devastating rural, urban, and suburban communities and is severely
12 straining even the most diligent and well-resourced state and local
13 governmental entities, civil and criminal. It is imperative that
14 the Legislature take steps to abate the crisis.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1795 of Title 21, unless there
17 is created a duplication in numbering, reads as follows:

18 A. As used in this section, the term "alien" means any person
19 not a citizen or national of the United States.

20 B. A person commits an impermissible occupation if the person
21 is an alien and willfully and without permission enters and remains
22 in the State of Oklahoma without having first obtained legal
23 authorization to enter the United States.

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1 C. 1. Any person found to have committed an impermissible
2 occupation pursuant to the provisions of subsection B of this
3 section and who enters this state without having obtained the legal
4 authorization to enter the United States shall, upon conviction, be
5 guilty of a misdemeanor punishable by imprisonment in the county
6 jail for a term of not more than one (1) year, or by a fine of not
7 more than Five Hundred Dollars (\$500.00), or by both such fine and
8 imprisonment. In addition, the person shall be required to leave
9 the state within seventy-two (72) hours following his or her
10 conviction or release from custody, whichever comes later.

11 2. Any second or subsequent offense for an impermissible
12 occupation pursuant to the provisions of subsection B of this
13 section, or any such offense committed during the commission of any
14 other crime shall, upon conviction, be guilty of a felony punishable
15 by imprisonment in the custody of the Department of Corrections for
16 a term of not more than two (2) years, or by a fine of not more than
17 One Thousand Dollars (\$1,000.00), or by both such fine and
18 imprisonment. In addition, the person shall be required to leave
19 the state within seventy-two (72) hours following his or her
20 conviction or release from custody, whichever comes later.

21 D. Any alien who has been denied admission, excluded, deported,
22 or removed, or has departed the United States while an order of
23 exclusion, deportation, or removal is outstanding, and thereafter
24 enters, attempts to enter, or is at any time found in Oklahoma

1 shall, upon conviction, be guilty of a felony and shall be punished
2 in accordance with the provisions set forth in paragraph 2 of
3 subsection C of this section, unless:

4 1. Prior to reembarkation of the alien at a place outside the
5 United States or application by the alien for admission from a
6 foreign contiguous territory, the United States Attorney General has
7 expressly consented to such alien's reapplying for admission; or

8 2. With respect to an alien previously denied admission and
9 removed, such alien established that he or she was not required to
10 obtain such advance consent under this section or any prior statute.

11 E. The arresting law enforcement agency shall collect all
12 available identifying information of the person including all
13 fingerprints and any other applicable photographic and biometric
14 data to identify the person. Once obtained, the law enforcement
15 agency shall cross-reference the collected information with:

16 1. All relevant local, state, and federal criminal databases;
17 and

18 2. Federal lists or classifications used to identify a person
19 as a threat or potential threat to national security.

20 The Oklahoma State Bureau of Investigation shall have the
21 authority to collect and maintain the identifying information
22 collected by law enforcement agencies pursuant to the provisions of
23 this subsection.

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1 F. It shall be an affirmative defense to prosecution under the
2 provisions of paragraphs 1 and 2 of subsection C of this section
3 that:

4 1. The federal government has granted the defendant:

5 a. lawful presence in the United States, or

6 b. asylum under Section 1158 of Title 8 of the United
7 States Code; or

8 2. The defendant was approved for benefits under the federal
9 Deferred Action for Childhood Arrivals program between June 15,
10 2012, and July 16, 2021.

11 G. Any person convicted of an offense pursuant to the
12 provisions of this section shall not be eligible for probation or
13 delayed sentencing.

14 H. The Legislature finds that the presence of persons who are
15 unauthorized to be present within the State of Oklahoma is a matter
16 of statewide concern. Therefore, the Legislature hereby occupies
17 and preempts the entire field of legislation in this state regarding
18 the presence of persons who have entered and remained in this state
19 without first having obtained the legal authorization to do so. Any
20 municipality or other political subdivision of this state shall be
21 prohibited from adopting any ordinance, regulation, resolution,
22 rule, or policy that conflicts with the provisions of this act.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 988.25 of Title 22, unless there
3 is created a duplication in numbering, reads as follows:

4 Notwithstanding any other provision of the Oklahoma Community
5 Sentencing Act, a defendant is not eligible for community sentencing
6 if the defendant is charged with or convicted of an offense under
7 Section 2 of this act.

8 SECTION 4. The provisions of this act are severable and if any
9 part or provision shall be held void the decision of the court so
10 holding shall not affect or impair any of the remaining parts or
11 provisions of this act.

12 SECTION 5. This act shall become effective July 1, 2024.

13 SECTION 6. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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