

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 4156

By: McCall of the House

and

Treat of the Senate

AS INTRODUCED

An Act relating to immigration; providing legislative intent; defining term; making certain acts unlawful; providing penalties; directing law enforcement agencies to collect identifying information and 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.

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

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

A. The Legislature finds and declares that protecting the health, safety, welfare, and constitutional rights of its citizens, authorized residents, and lawfully present visitors is of utmost

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

16 B. Further, the Legislature finds and declares that a crisis
17 exists in Oklahoma. Throughout the state, law enforcement comes
18 into daily and increasingly frequent contact with foreign nationals
19 who entered the country illegally or who remain here illegally.
20 This is particularly common in regard to illegal marijuana grow
21 operations, which have exploded in number in recent years. Often,
22 these persons are involved with organized crime such as drug
23 cartels, they have no regard for Oklahoma's laws or public safety,
24 and they produce or are involved with fentanyl distribution, sex
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1 trafficking, and labor trafficking. Oklahoma agents and law
2 enforcement partners have seized countless tons of dangerous drugs
3 and arrested untold numbers of traffickers, many of whom entered
4 without authorization through our southern border. This crisis of
5 unauthorized entry and presence is endangering Oklahomans,
6 devastating rural, urban, and suburban communities and is severely
7 straining even the most diligent and well-resourced state and local
8 governmental entities, civil and criminal. It is imperative that
9 the Legislature take steps to abate the crisis.

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

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

15 B. A person commits an impermissible occupation if the person
16 is an alien and willfully and without permission enters and remains
17 in the State of Oklahoma without having first obtained legal
18 authorization to enter the United States.

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

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

15 D. Any alien who has been denied admission, excluded, deported,
16 or removed, or has departed the United States while an order of
17 exclusion, deportation, or removal is outstanding, and thereafter
18 enters, attempts to enter, or is at any time found in Oklahoma
19 shall, upon conviction, be guilty of a felony and shall be punished
20 in accordance with the provisions set forth in paragraph 2 of
21 subsection C of this section, unless:

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

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

6 E. The arresting law enforcement agency shall collect all
7 available identifying information of the person including all
8 fingerprints and any other applicable photographic and biometric
9 data to identify the person. Once obtained, the law enforcement
10 agency shall cross-reference the collected information with:

11 1. All relevant local, state, and federal criminal databases;
12 and

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

15 The Oklahoma State Bureau of Investigation shall have the
16 authority to collect and maintain the identifying information
17 collected by law enforcement agencies pursuant to the provisions of
18 this subsection.

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

22 1. The federal government has granted the defendant:

23 a. lawful presence in the United States, or
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1 b. asylum under Section 1158 of Title 8 of the United
2 States Code; or

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

6 G. Any person convicted of an offense pursuant to the
7 provisions of this section shall not be eligible for probation or
8 delayed sentencing.

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

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

21 Notwithstanding any other provision of the Oklahoma Community
22 Sentencing Act, a defendant is not eligible for community sentencing
23 if the defendant is charged with or convicted of an offense under
24 Section 2 of this act.
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1 SECTION 4. The provisions of this act are severable and if any
2 part or provision shall be held void the decision of the court so
3 holding shall not affect or impair any of the remaining parts or
4 provisions of this act.

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

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

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