

**House Judiciary Reported Substitute for SB53**

A BILL
TO BE ENTITLED
AN ACT

Relating to immigration; to amend Sections 31-13-3, 31-13-12, and 31-13-18, Code of Alabama 1975, to further provide for definitions; to require an administrator of a state, county, or municipal jail, or his or her designee, to attempt to determine whether an individual arrested and detained in the jail is an illegal alien under certain circumstances; to further provide the process for verification; to further provide the process for response to a federal detainer and administrative warrant; to add Section 31-13-13.1 to the Code of Alabama 1975, to establish the crime of human smuggling; and to provide penalties for violations; and to repeal Section 31-13-13, Code of Alabama 1975, relating to illegal aliens.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 31-13-3, 31-13-12, and 31-13-18, Code of Alabama 1975, are amended to read as follows:

"§31-13-3

For the purposes of this chapter, the following words ~~shall~~ have the following meanings:

(1) ALIEN. Any ~~person~~ individual who is not a citizen

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or national of the United States, as described in 8 U.S.C. § 1101, et seq., and any amendments thereto.

(2) BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. Business entity shall include, but not be limited to, the following:

a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

(3) CONTRACTOR. A person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This definition shall include, but not be limited to, a general contractor, subcontractor, independent contractor, contract employee, project manager, or a recruiting or staffing entity.

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(4) EMPLOYEE. Any person directed, allowed, or permitted to perform labor or service of any kind by an employer. The employees of an independent contractor working for a business entity shall not be regarded as the employees of the business entity, for the purposes of this chapter. This term does not include any inmate in the legal custody of the state, a county, or a municipality.

(5) EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

(6) EMPLOYMENT. The act of employing or state of being employed, engaged, or hired to perform work or service of any kind or character within the State of Alabama, including any job, task, work, labor, personal services, or any other activity for which compensation is provided, expected, or due, including, but not limited to, all activities conducted by a business entity or employer. This term shall not include casual domestic labor performed in a household on behalf of the occupant of the household or the relationship between a contractor and the employees of a subcontractor performing work for the contractor.

(7) E-VERIFY. The electronic verification of federal



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employment authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. § 1324(a), and operated by the United States Department of Homeland Security, or its successor program.

(8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. § 1324(a).

(9) ILLEGAL ALIEN. An alien who is not lawfully present in the United States under any federal law, regulation, order, or directive.

~~(9)~~ (10) KNOWS or KNOWINGLY. A person acts knowingly or with knowledge with respect to either of the following:

a. The person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist.

b. A result of the person's conduct when the person is reasonably aware that the person's conduct is likely to cause that result.

~~(10)~~ (11) LAWFUL PRESENCE or LAWFULLY PRESENT. ~~A person~~
An individual shall be regarded as an illegal alien ~~unlawfully~~

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~~present in the United States~~ only if the ~~person's~~ individual's unlawful immigration status has been verified by the federal government pursuant to 8 U.S.C. § 1373(c). No officer of this state or any political subdivision of this state shall attempt to independently make a final determination of an alien's immigration status. An alien possessing self-identification in any of the following forms is entitled to the presumption that he or she is an alien lawfully present in the United States:

- a. A valid, unexpired Alabama ~~driver's~~ driver license.
- b. A valid, unexpired Alabama nondriver identification card.
- c. A valid tribal enrollment card or other form of tribal identification bearing a photograph or other biometric identifier.
- d. Any valid United States federal or state government issued identification document bearing a photograph or other biometric identifier, including a valid Uniformed Services Privileges and Identification Card if issued by an entity that requires proof of lawful presence in the United States before issuance.
- e. A foreign passport with an unexpired United States Visa and a corresponding stamp or notation by the United States Department of Homeland Security indicating the bearer's admission to the United States.
- f. A foreign passport issued by a visa waiver country with the corresponding entry stamp and unexpired duration of stay annotation or an I-94W form by the United States Department of Homeland Security indicating the bearer's

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admission to the United States.

~~(11)~~ (12) POLICY OR PRACTICE. A guiding principle or rule that may be written or adopted through repeated actions or customs.

~~(12)~~ (13) PROTECTIVE SERVICES PROVIDER. A child protective services worker; adult protective services worker; protective services provider; or provider of services to victims of domestic violence, stalking, sexual assault, or human trafficking that receives federal grants under the Victim of Crimes Act, the Violence Against Women Act, or the Family Violence Prevention and Services Act.

~~(13)~~ (14) PUBLIC EMPLOYER. Every department, agency, or instrumentality of the state or a political subdivision of the state including counties and municipalities.

~~(14)~~ (15) STATE-FUNDED ENTITY. Any governmental entity of the state or a political subdivision thereof or any other entity that receives any monies from the state or a political subdivision thereof; provided, however, an entity that merely provides a service or a product to any governmental entity of the state or a political subdivision thereof, and receives compensation for the same, shall not be considered a state-funded entity.

~~(15)~~ (16) SUBCONTRACTOR. A person, business entity, or employer who is awarded a portion of an existing contract by a contractor, regardless of its tier.

~~(16)~~ (17) UNAUTHORIZED ALIEN. An alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3)."

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"§31-13-12

(a) Upon any lawful stop, detention, or arrest made by a state, county, or municipal law enforcement officer of this state in the enforcement of any state law or ordinance of any political subdivision thereof, where reasonable suspicion exists that the ~~person~~ individual is an illegal alien ~~who is unlawfully present in the United States~~, a reasonable attempt shall be made, when practicable, to determine the citizenship and immigration status of the ~~person~~ individual, except if the determination may hinder or obstruct an investigation. ~~Such~~ The determination shall be made by contacting the federal government pursuant to 8 U.S.C. § 1373(c) and relying upon any verification provided by the federal government.

(b) Any alien who is arrested and booked into custody shall ~~have his or her immigration status determined pursuant to 8 U.S.C. § 1373(c). The alien's immigration status shall be verified by contacting the federal government pursuant to 8 U.S.C. § 1373(c) within 24 hours of the time of the alien's arrest. If for any reason federal verification pursuant to 8 U.S.C. § 1373(c) is delayed beyond the time that the alien would otherwise be released from custody, the alien shall be released from custody~~ be subject to Section 31-13-18.

(c) A law enforcement officer shall not attempt to independently make a final determination of whether an individual is an illegal alien ~~is lawfully present in the United States~~. A law enforcement officer may not consider race, color, or national origin in implementing the requirements of this section except to the extent permitted by

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the United States Constitution or the Constitution of Alabama
of ~~1901~~2022.

(d) ~~A person~~ An individual is presumed to not be an
illegal alien ~~who is unlawfully present in the United States~~
if the ~~person~~ individual provides to the law enforcement
officer any of the following:

(1) A valid, unexpired Alabama ~~driver's~~ driver license.

(2) A valid, unexpired Alabama nondriver identification
card.

(3) A valid tribal enrollment card or other form of
tribal identification bearing a photograph or other biometric
identifier.

(4) Any valid United States federal or state government
issued identification document bearing a photograph or other
biometric identifier, if issued by an entity that requires
proof of lawful presence in the United States before issuance.

(5) A foreign passport with an unexpired United States
Visa and a corresponding stamp or notation by the United
States Department of Homeland Security indicating the bearer's
admission to the United States.

(6) A foreign passport issued by a visa waiver country
with the corresponding entry stamp and unexpired duration of
stay annotation or an I-94W form by the United States
Department of Homeland Security indicating the bearer's
admission to the United States.

(e) If ~~an alien~~ an individual is determined by the
federal government to be an illegal alien ~~who is unlawfully~~
~~present in the United States~~ pursuant to 8 U.S.C. § 1373(c),



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the law enforcement agency shall cooperate in the transfer of the ~~alien~~ individual to the custody of the federal government, if the federal government so requests."

"§31-13-18

(a) When ~~a person~~ an individual is ~~charged with a crime for which bail is required, or is~~ confined for any period in a state, county, or municipal jail, the administrator of the facility, or his or her designee, shall make a reasonable effort ~~shall be made~~ to determine if the ~~person~~ individual is an illegal alien ~~unlawfully present in the United States by verification with the federal government pursuant to 8 U.S.C. § 1373(c)~~ an inquiry of the individual, by examination of any relevant documents, or both, if the individual is charged with any of the following:

(1) A felony under Article 1, 3, 4, 4A, 4B, 8, or 12 of Chapter 6 of Title 13A.

(2) A felony or Class A misdemeanor under Article 2, 7, or 9 of Chapter 6 of Title 13A or Chapter 15 of Title 26.

(3) A violation of Sections 13A-12-211, 13A-12-212, 13A-12-217, or 13A-12-218.

(b) ~~A~~ If a verification inquiry, ~~pursuant to 8 U.S.C. § 1373(c), shall be made within 48 hours to the Law Enforcement Support Center of the United States Department of Homeland Security or other office or agency designated for that purpose by the federal government. If the person is determined to be an alien unlawfully present in the United States, the person shall be considered a flight risk and shall be detained until prosecution or until handed over to federal immigration~~

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authorities is unable to determine whether the individual is an illegal alien, the administrator of the facility, or his or her designee, holding the individual shall make a query to the Immigration and Customs Enforcement of the United States Department of Homeland Security.

(c) When the administrator in charge of the facility, or his or her designee, has been notified that Immigration and Customs Enforcement of the United States Department of Homeland Security has issued a detainer and administrative warrant that reasonably appears to be for the individual in custody, the administrator in charge of the facility, or his or her designee, shall hold the individual in custody until the first of the following conditions occurs:

(1) The passage of 48 hours from receipt of the detainer and administrative warrant by the administrator in charge of the facility, or his or her designee.

(2) Immigration and Customs Enforcement of the United States Department of Homeland Security takes custody of the individual.

(3) The detainer is rescinded by Immigration and Customs Enforcement of the United States Department of Homeland Security.

(d) No state or local law enforcement agency, employee of a state or local law enforcement agency, jail administrator, or state or local law enforcement officer shall be subject to criminal or civil liability for action taken pursuant to subsection (c).

(e) Except as provided in subsection (c), nothing in

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this section shall be construed to deny bond to an individual or prevent an individual from being released from confinement when that individual is otherwise eligible for release."

Section 2. Section 31-13-13.1 is added to the Code of Alabama 1975 to read as follows:

§31-13-13.1

(a) A person commits the crime of human smuggling if he or she knowingly transports into this state another individual if he or she knows is an illegal alien.

(b) Human smuggling is a Class C felony.

(c) It shall not be a violation of this section for an attorney to transport a client to or from a federal immigration facility or other federal, state, or local government facility.

(d) It shall not be a violation of this section to do any of the following:

(1) For any educator or other employee of an educational entity to transport a student as part of an official educational excursion.

(2) For any health care provider to transport or treat a patient.

(3) For any person to transport an individual for non commercial religious or charitable purposes.

(4) For any person to transport an individual to or from a location for governmental purposes.

Section 3. Section 31-13-13, Code of Alabama 1975, providing for the crime of concealing, harboring, or shielding illegal aliens, is repealed.



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309 Section 4. This act shall become effective on October
310 1, 2025.