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SYNOPSIS:

Under existing law, when an alien or a suspected alien is arrested and booked in a state, county, or municipal jail, a reasonable effort shall be made to determine if that individual is an illegal alien.

This bill would further provide for the process in which an administrator in charge of a state, county, or municipal jail, or his or her designee, is to determine whether an individual arrested and booked in the jail is an illegal alien.

This bill would also create the crime of human smuggling and would provide criminal penalties for violations.

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



29 circumstances; to further provide the process for  
30 verification; to further provide the process for response to a  
31 federal detainer and administrative warrant; to add Section  
32 31-13-13.1 to the Code of Alabama 1975, to establish the crime  
33 of human smuggling; and to provide penalties for violations;  
34 and to repeal Section 31-13-13, Code of Alabama 1975, relating  
35 to illegal aliens.

36 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

39 "§31-13-3

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

42 (1) ALIEN. Any ~~person~~ individual who is not a citizen  
43 or national of the United States, as described in 8 U.S.C. §  
44 1101, et seq., and any amendments thereto.

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

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



57 Secretary of State.

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

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

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

78           (5) EMPLOYER. Any person, firm, corporation,  
79 partnership, joint stock association, agent, manager,  
80 representative, foreman, or other person having control or  
81 custody of any employment, place of employment, or of any  
82 employee, including any person or entity employing any person  
83 for hire within the State of Alabama, including a public  
84 employer. This term shall not include the occupant of a



85 household contracting with another person to perform casual  
86 domestic labor within the household.

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

98 (7) E-VERIFY. The electronic verification of federal  
99 employment authorization program of the Illegal Immigration  
100 Reform and Immigrant Responsibility Act of 1996, P.L. 104-208,  
101 Division C, Section 403(a); 8 U.S.C. § 1324(a), and operated  
102 by the United States Department of Homeland Security, or its  
103 successor program.

104 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the  
105 electronic verification of work authorization programs  
106 operated by the United States Department of Homeland Security  
107 or an equivalent federal work authorization program operated  
108 by the United States Department of Homeland Security to verify  
109 information of newly hired employees, under the Immigration  
110 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the  
111 Illegal Immigration Reform and Immigrant Responsibility Act of  
112 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §



113 1324 (a) .

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

117 ~~(9)~~ (10) KNOWS or KNOWINGLY. A person acts knowingly or  
118 with knowledge with respect to either of the following:

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

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

125 ~~(10)~~ (11) LAWFUL PRESENCE or LAWFULLY PRESENT. ~~A person~~  
126 An individual shall be regarded as an illegal alien ~~unlawfully~~  
127 ~~present in the United States~~ only if the ~~person's~~ individual's  
128 unlawful immigration status has been verified by the federal  
129 government pursuant to 8 U.S.C. § 1373(c). No officer of this  
130 state or any political subdivision of this state shall attempt  
131 to independently make a final determination of an alien's  
132 immigration status. An alien possessing self-identification in  
133 any of the following forms is entitled to the presumption that  
134 he or she is an alien lawfully present in the United States:

135 a. A valid, unexpired Alabama ~~driver's~~ driver license.

136 b. A valid, unexpired Alabama nondriver identification  
137 card.

138 c. A valid tribal enrollment card or other form of  
139 tribal identification bearing a photograph or other biometric  
140 identifier.



141 d. Any valid United States federal or state government  
142 issued identification document bearing a photograph or other  
143 biometric identifier, including a valid Uniformed Services  
144 Privileges and Identification Card if issued by an entity that  
145 requires proof of lawful presence in the United States before  
146 issuance.

147 e. A foreign passport with an unexpired United States  
148 Visa and a corresponding stamp or notation by the United  
149 States Department of Homeland Security indicating the bearer's  
150 admission to the United States.

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

156 ~~(11)~~ (12) POLICY OR PRACTICE. A guiding principle or  
157 rule that may be written or adopted through repeated actions  
158 or customs.

159 ~~(12)~~ (13) PROTECTIVE SERVICES PROVIDER. A child  
160 protective services worker; adult protective services worker;  
161 protective services provider; or provider of services to  
162 victims of domestic violence, stalking, sexual assault, or  
163 human trafficking that receives federal grants under the  
164 Victim of Crimes Act, the Violence Against Women Act, or the  
165 Family Violence Prevention and Services Act.

166 ~~(13)~~ (14) PUBLIC EMPLOYER. Every department, agency, or  
167 instrumentality of the state or a political subdivision of the  
168 state including counties and municipalities.



169           ~~(14)~~ (15) STATE-FUNDED ENTITY. Any governmental entity  
170 of the state or a political subdivision thereof or any other  
171 entity that receives any monies from the state or a political  
172 subdivision thereof; provided, however, an entity that merely  
173 provides a service or a product to any governmental entity of  
174 the state or a political subdivision thereof, and receives  
175 compensation for the same, shall not be considered a  
176 state-funded entity.

177           ~~(15)~~ (16) SUBCONTRACTOR. A person, business entity, or  
178 employer who is awarded a portion of an existing contract by a  
179 contractor, regardless of its tier.

180           ~~(16)~~ (17) UNAUTHORIZED ALIEN. An alien who is not  
181 authorized to work in the United States as defined in 8 U.S.C.  
182 § 1324a(h)(3)."

183           "§31-13-12

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

196           (b) Any alien who is arrested and booked into custody



197 shall ~~have his or her immigration status determined pursuant~~  
198 ~~to 8 U.S.C. § 1373(c). The alien's immigration status shall be~~  
199 ~~verified by contacting the federal government pursuant to 8~~  
200 ~~U.S.C. § 1373(c) within 24 hours of the time of the alien's~~  
201 ~~arrest. If for any reason federal verification pursuant to 8~~  
202 ~~U.S.C. § 1373(c) is delayed beyond the time that the alien~~  
203 ~~would otherwise be released from custody, the alien shall be~~  
204 ~~released from custody~~be subject to Section 31-13-18.

205 (c) A law enforcement officer shall not attempt to  
206 independently make a final determination of whether an  
207 individual is an illegal alien ~~is lawfully present in the~~  
208 ~~United States~~. A law enforcement officer may not consider  
209 race, color, or national origin in implementing the  
210 requirements of this section except to the extent permitted by  
211 the United States Constitution or the Constitution of Alabama  
212 of ~~1901~~2022.

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

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

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

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

223 (4) Any valid United States federal or state government  
224 issued identification document bearing a photograph or other





225 biometric identifier, if issued by an entity that requires  
226 proof of lawful presence in the United States before issuance.

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

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

236 (e) If ~~an alien~~ an individual is determined by the  
237 federal government to be an illegal alien ~~who is unlawfully~~  
238 ~~present in the United States~~ pursuant to 8 U.S.C. § 1373(c),  
239 the law enforcement agency shall cooperate in the transfer of  
240 the ~~alien~~ individual to the custody of the federal government,  
241 if the federal government so requests."

242 "§31-13-18

243 (a) When ~~a person~~ an individual is ~~charged with a crime~~  
244 ~~for which bail is required, or is~~ confined for any period in a  
245 state, county, or municipal jail, the administrator of the  
246 facility, or his or her designee, shall make a reasonable  
247 effort ~~shall be made~~ to determine if the ~~person~~ individual is  
248 an illegal alien ~~unlawfully present in the United States~~ by  
249 ~~verification with the federal government pursuant to 8 U.S.C.~~  
250 ~~§ 1373(c)~~ an inquiry of the individual, by examination of any  
251 relevant documents, or both, if the individual is charged with  
252 any of the following:



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

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

257 (3) A violation of Sections 13A-12-211, 13A-12-212,  
258 13A-12-217, or 13A-12-218.

259 (b) ~~A~~ If a verification inquiry, ~~pursuant to 8 U.S.C. §~~  
260 ~~1373(c), shall be made within 48 hours to the Law Enforcement~~  
261 ~~Support Center of the United States Department of Homeland~~  
262 ~~Security or other office or agency designated for that purpose~~  
263 ~~by the federal government. If the person is determined to be~~  
264 ~~an alien unlawfully present in the United States, the person~~  
265 ~~shall be considered a flight risk and shall be detained until~~  
266 ~~prosecution or until handed over to federal immigration~~  
267 ~~authorities~~ is unable to determine whether the individual is  
268 an illegal alien, the administrator of the facility, or his or  
269 her designee, holding the individual shall make a query to the  
270 Immigration and Customs Enforcement of the United States  
271 Department of Homeland Security.

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

280 (1) The passage of 48 hours from receipt of the



281 detainer and administrative warrant by the administrator in  
282 charge of the facility, or his or her designee.

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

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

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

294 (e) Except as provided in subsection (c), nothing in  
295 this section shall be construed to deny bond to an individual  
296 or prevent an individual from being released from confinement  
297 when that individual is otherwise eligible for release."

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

300 §31-13-13.1

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

304 (b) Human smuggling is a Class C felony.

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

308 Section 4. This act shall become effective on October



309 1, 2025.