

SB53 INTRODUCED



1 SB53
2 TNMA115-1
3 By Senators Kitchens, Kelley, Bell, Elliott, Weaver,
4 Smitherman
5 RFD: County and Municipal Government
6 First Read: 04-Feb-25



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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 repeal a criminal provision concerning illegal immigration that was held invalid by the federal court and would establish the new crime of concealing an illegal alien and would provide criminal penalties for violations.

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,



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29 31-13-12, and 31-13-18, Code of Alabama 1975, to further
30 provide for definitions; to require an administrator of a
31 state, county, or municipal jail, or his or her designee, to
32 attempt to determine whether an individual arrested and
33 detained in the jail is an illegal alien under certain
34 circumstances; to further provide the process for
35 verification; to further provide the process for response to a
36 federal detainer and administrative warrant; to add Sections
37 31-13-13.1 and 31-13-13.2 to the Code of Alabama 1975, to
38 establish the crimes of concealing an illegal alien and human
39 smuggling; and to provide penalties for violations; and to
40 repeal Section 31-13-13, Code of Alabama 1975, relating to
41 illegal aliens.

42 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

45 "§31-13-3

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

48 (1) ALIEN. Any ~~person~~ individual who is not a citizen
49 or national of the United States, as described in 8 U.S.C. §
50 1101, et seq., and any amendments thereto.

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



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

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

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

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

84 (5) EMPLOYER. Any person, firm, corporation,



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85 partnership, joint stock association, agent, manager,
86 representative, foreman, or other person having control or
87 custody of any employment, place of employment, or of any
88 employee, including any person or entity employing any person
89 for hire within the State of Alabama, including a public
90 employer. This term shall not include the occupant of a
91 household contracting with another person to perform casual
92 domestic labor within the household.

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

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

110 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
111 electronic verification of work authorization programs
112 operated by the United States Department of Homeland Security



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113 or an equivalent federal work authorization program operated
114 by the United States Department of Homeland Security to verify
115 information of newly hired employees, under the Immigration
116 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the
117 Illegal Immigration Reform and Immigrant Responsibility Act of
118 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §
119 1324(a).

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

123 ~~(9)~~ (10) KNOWS or KNOWINGLY. A person acts knowingly or
124 with knowledge with respect to either of the following:

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

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

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



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

142 b. A valid, unexpired Alabama nondriver identification
143 card.

144 c. A valid tribal enrollment card or other form of
145 tribal identification bearing a photograph or other biometric
146 identifier.

147 d. Any valid United States federal or state government
148 issued identification document bearing a photograph or other
149 biometric identifier, including a valid Uniformed Services
150 Privileges and Identification Card if issued by an entity that
151 requires proof of lawful presence in the United States before
152 issuance.

153 e. A foreign passport with an unexpired United States
154 Visa and a corresponding stamp or notation by the United
155 States Department of Homeland Security indicating the bearer's
156 admission to the United States.

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

162 ~~(11)~~(12) POLICY OR PRACTICE. A guiding principle or
163 rule that may be written or adopted through repeated actions
164 or customs.

165 ~~(12)~~(13) PROTECTIVE SERVICES PROVIDER. A child
166 protective services worker; adult protective services worker;
167 protective services provider; or provider of services to
168 victims of domestic violence, stalking, sexual assault, or



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169 human trafficking that receives federal grants under the
170 Victim of Crimes Act, the Violence Against Women Act, or the
171 Family Violence Prevention and Services Act.

172 ~~(13)~~ (14) PUBLIC EMPLOYER. Every department, agency, or
173 instrumentality of the state or a political subdivision of the
174 state including counties and municipalities.

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

183 ~~(15)~~ (16) SUBCONTRACTOR. A person, business entity, or
184 employer who is awarded a portion of an existing contract by a
185 contractor, regardless of its tier.

186 ~~(16)~~ (17) UNAUTHORIZED ALIEN. An alien who is not
187 authorized to work in the United States as defined in 8 U.S.C.
188 § 1324a(h) (3)."

189 "§31-13-12

190 (a) Upon any lawful stop, detention, or arrest made by
191 a state, county, or municipal law enforcement officer of this
192 state in the enforcement of any state law or ordinance of any
193 political subdivision thereof, where reasonable suspicion
194 exists that the ~~person~~ individual is an illegal alien ~~who is~~
195 ~~unlawfully present in the United States~~, a reasonable attempt
196 shall be made, when practicable, to determine the citizenship



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197 and immigration status of the ~~person~~individual, except if the
198 determination may hinder or obstruct an investigation. ~~Such~~
199 The determination shall be made by contacting the federal
200 government pursuant to 8 U.S.C. § 1373(c) and relying upon any
201 verification provided by the federal government.

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

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

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

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

224 (2) A valid, unexpired Alabama nondriver identification



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225 card.

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

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

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

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

242 (e) If ~~an alien~~ an individual is determined by the
243 federal government to be an illegal alien ~~who is unlawfully~~
244 ~~present in the United States~~ pursuant to 8 U.S.C. § 1373(c),
245 the law enforcement agency shall cooperate in the transfer of
246 the ~~alien~~ individual to the custody of the federal government,
247 if the federal government so requests."

248 "§31-13-18

249 (a) When ~~a person~~ an individual is ~~charged with a crime~~
250 ~~for which bail is required, or is~~ confined for any period in a
251 state, county, or municipal jail, the administrator of the
252 facility, or his or her designee, shall make a reasonable



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253 effort ~~shall be made~~ to determine if the ~~person~~ individual is
254 an illegal alien ~~unlawfully present in the United States~~ by
255 ~~verification with the federal government pursuant to 8 U.S.C.~~
256 ~~§ 1373(e)~~ an inquiry of the individual, by examination of any
257 relevant documents, or both, if the individual is charged with
258 any of the following:

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

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

263 (3) A violation of Sections 13A-12-211, 13A-12-212,
264 13A-12-217, or 13A-12-218.

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

278 (c) When the administrator in charge of the facility,
279 or his or her designee, has been notified that Immigration and
280 Customs Enforcement of the United States Department of



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281 Homeland Security has issued a detainer and administrative
282 warrant that reasonably appears to be for the individual in
283 custody, the administrator in charge of the facility, or his
284 or her designee, shall hold the individual in custody until
285 the first of the following conditions occurs:

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

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

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

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

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

304 Section 2. Sections 31-13-13.1 and 31-13-13.2 are added
305 to the Code of Alabama 1975 to read as follows:

306 §31-13-13.1

307 (a) An individual commits the crime of concealing an
308 illegal alien if he or she does any of the following:



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309 (1) Conceals, harbors, or shields from detection an
310 illegal alien if he or she knows or reasonably should have
311 known that the other individual is an illegal alien.

312 (2) Attempts to conceal, harbor, or shield from
313 detection an illegal alien if he or she knows or reasonably
314 should have known that the other individual is an illegal
315 alien.

316 (3) Conspires to conceal, harbor, or shield from
317 detection an illegal alien if he or she knows or reasonably
318 should have known that the other individual is an illegal
319 alien.

320 (4) Encourages or induces an illegal alien to come to
321 or reside in this state if he or she knows or reasonably
322 should have known that the other individual is an illegal
323 alien.

324 (5) Transports, attempts to transport, or conspires to
325 transport an illegal alien in this state in furtherance of the
326 illegal alien's unlawful presence in the United States if he
327 or she knows or reasonably should have known that the other
328 individual is an illegal alien.

329 (b) Concealing an illegal alien is a Class A
330 misdemeanor.

331 (c) Any violation of subsection (a) that involves five
332 or more illegal aliens is a Class C felony.

333 (d) It shall not be a violation of this section for a
334 religious denomination having a bona fide nonprofit religious
335 organization in the United States, or an agent or officer of
336 the denomination or organization, to encourage, invite, call,



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337 allow, or enable an alien who is present in the United States
338 to perform the vocation of a minister or missionary for the
339 denomination or organization in the United States as a
340 volunteer who is not compensated as an employee,
341 notwithstanding the provision of room, board, travel, medical
342 assistance, or other basic living expenses, provided the
343 minister or missionary has been a member of the denomination
344 for at least one year.

345 (e) Notwithstanding any other law, a law enforcement
346 agency may securely transport an individual whom the agency
347 has received verification from the federal government pursuant
348 to 8 U.S.C. § 1373 that the individual is an illegal alien and
349 who is in the agency's custody to a state approved facility,
350 to a federal facility in this state, or to any other point of
351 transfer into federal custody that is outside the jurisdiction
352 of the agency. A law enforcement agency shall obtain judicial
353 authorization or executive authorization from the Governor
354 before securely transporting an illegal alien to a point of
355 transfer that is outside the state.

356 (f) Notwithstanding any other law, any individual
357 acting in his or her official capacity as a first responder or
358 protective services provider may harbor, shelter, move, or
359 transport an illegal alien pursuant to state law.

360 (g) Any conveyance, including, but not limited to, any
361 vessel, vehicle, or aircraft, that has been or is being used
362 in the commission of a violation of this section, and the
363 gross proceeds of any violation of this section, shall be
364 subject to civil forfeiture under the procedures of Section



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365 20-2-93.

366 (h) In the enforcement of this section, an alien's
367 immigration status shall be determined by verification with
368 the federal government pursuant to 8 U.S.C. § 1373. A law
369 enforcement officer shall not attempt to independently make a
370 final determination of whether an individual is an illegal
371 alien.

372 (i) Any record that relates to the immigration status
373 of an individual is admissible in any court of this state
374 without further foundation or testimony from a custodian of
375 records if the record is certified as authentic by the federal
376 government agency that is responsible for maintaining the
377 record. A verification of an alien's immigration status
378 received from the federal government shall constitute proof of
379 that alien's status. A court of this state shall consider only
380 the federal government's verification in determining whether
381 an individual is an illegal alien.

382 (j) This section shall be interpreted to be consistent
383 with 8 U.S.C. § 1324.

384 §31-13-13.2

385 (a) A person commits the crime of human smuggling if he
386 or she knowingly transports into this state another individual
387 if he or she knows or reasonably should have known that the
388 other individual is an illegal alien.

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

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



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393 Section 4. This act shall become effective on October
394 1, 2025.