

CHAPTER 2025-2

Senate Bill No. 4-C

An act relating to immigration; providing a directive to the Division of Law Revision; creating s. 811.101, F.S.; defining the terms “removal” and “unauthorized alien”; creating s. 811.102, F.S.; providing criminal penalties for adult unauthorized aliens who knowingly enter or attempt to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers; providing a mandatory minimum term of imprisonment; providing enhanced criminal penalties for second or subsequent convictions; providing mandatory minimum terms of imprisonment; prohibiting the arrest of unauthorized aliens under specified circumstances; providing affirmative defenses; requiring a court to presume that no conditions of release can reasonably assure the presence of an unauthorized alien arrested for certain violations at trial and to order the detention of such an unauthorized alien arrested for such a violation pending disposition of the case; specifying that such aliens are not eligible for any civil citation or other prearrest or postarrest diversion program; requiring the arresting law enforcement agency to notify certain entities of the unauthorized alien’s arrest; creating s. 811.103, F.S.; providing criminal penalties for an adult unauthorized alien who, after having been denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state; providing exceptions; providing a mandatory minimum term of imprisonment; providing enhanced criminal penalties for an unauthorized alien whose arrest for such violations was after convictions for the commission of specified offenses; requiring a court to presume that no conditions of release can reasonably assure the presence of an unauthorized alien arrested for certain violations at trial and to order the detention of such an unauthorized alien arrested for such a violation pending disposition of the case; specifying that such aliens are not eligible for any civil citation or other prearrest or postarrest diversion program; requiring the arresting law enforcement agency to notify certain entities of the unauthorized alien’s arrest; creating s. 921.1426, F.S.; requiring a court to sentence a defendant who is an unauthorized alien and who is convicted or adjudicated guilty of a capital felony to a sentence of death; defining the term “unauthorized alien”; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Division of Law Revision is directed to create chapter 811, Florida Statutes, to be entitled “UNAUTHORIZED ALIENS, NATIONALITY, AND IMMIGRATION,” consisting of ss. 811.101, 811.102, and 811.103, Florida Statutes.

Section 2. Section 811.101, Florida Statutes, is created to read:

811.101 Definitions.—As used in this chapter, the term:

(1) “Removal” means the departure from the United States of an unauthorized alien after any proceeding under 8 U.S.C. ss. 1225, 1228, 1229, or 1229a or any agreement in which an unauthorized alien stipulates to his or her departure from the United States as part of a criminal proceeding under federal or state law.

(2) “Unauthorized alien” has the same meaning as in s. 908.111.

Section 3. Section 811.102, Florida Statutes, is created to read:

811.102 Illegal entry by adult unauthorized alien into this state.—

(1) Except as provided in subsection (2), an unauthorized alien who is 18 years of age or older and who knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person convicted of a violation of this subsection must be sentenced to a mandatory minimum term of imprisonment of 9 months.

(2)(a) An unauthorized alien who has one prior conviction for a violation of this section and who commits a second violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this paragraph must be sentenced to a mandatory minimum term of imprisonment of 1 year and 1 day.

(b) An unauthorized alien who has two or more prior convictions for a violation of this section and who commits a subsequent violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted for a violation of this paragraph must be sentenced to a mandatory minimum term of imprisonment of 2 years.

(3) An unauthorized alien may not be arrested for a violation of this section if the unauthorized alien was encountered by law enforcement during the investigation of another crime that occurred in this state and the unauthorized alien witnessed or reported such crime or was a victim of such crime.

(4) It is an affirmative defense to prosecution under this section if:

(a) The Federal Government has granted the unauthorized alien lawful presence in the United States or discretionary relief that authorizes the unauthorized alien to remain in the United States temporarily or permanently;

(b) The unauthorized alien is subject to relief under the Cuban Adjustment Act of 1966; or

(c) The unauthorized alien's entry into the United States did not constitute a violation of 8 U.S.C. s. 1325(a).

(5) Notwithstanding any other law, and unless release is otherwise required by the State Constitution or the United States Constitution, the court shall presume that no conditions of release can reasonably assure the presence of an unauthorized alien arrested for a violation of this section at his or her trial and must order the unauthorized alien to be detained pending the disposition of the case.

(6) An unauthorized alien who commits a violation of this section is not eligible for a civil citation, prearrest or postarrest diversion program, or other similar program, including, but not limited to, any program described in s. 901.41 or s. 921.00241.

(7) Upon making an arrest for a violation of this section, the arresting law enforcement agency shall:

(a) Notify Immigration and Customs Enforcement of the United States Department of Homeland Security of the unauthorized alien's arrest and provide any known information relating to the unauthorized alien; and

(b) Notify the Department of Law Enforcement of the unauthorized alien's arrest and provide information relating to the unauthorized alien, which must include his or her fingerprints, photograph, and any other biometric information necessary to identify the unauthorized alien.

Section 4. Section 811.103, Florida Statutes, is created to read:

811.103 Illegal reentry of an adult unauthorized alien.—

(1) An unauthorized alien who is 18 years of age or older commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she, after having been denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state. An unauthorized alien does not commit a violation of this subsection if, before the unauthorized alien's reembarkation at a place outside the United States or his or her application for admission from a foreign contiguous territory:

(a) The Attorney General of the United States expressly consented to his or her reapplication for admission; or

(b) With respect to an unauthorized alien who was previously denied admission and removed, the unauthorized alien establishes that he or she was not required to obtain such advance consent under the Immigration and Nationality Act, as amended.

(2) Except as provided in subsection (3), an unauthorized alien who violates subsection (1) must be sentenced to a mandatory minimum term of imprisonment of 1 year and 1 day.

(3)(a) An unauthorized alien who has three or more prior convictions for a misdemeanor or a felony, other than a forcible felony as defined in s. 776.08 or an aggravated felony as defined in 8 U.S.C. s. 1101, and who commits a violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of violating this paragraph must be sentenced to a mandatory minimum term of imprisonment of 2 years.

(b) An unauthorized alien who has a prior conviction for a forcible felony as defined in s. 776.08 or an aggravated felony as defined in 8 U.S.C. s. 1101 and who commits a violation of subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this paragraph must be sentenced to a mandatory minimum term of imprisonment of 5 years.

(4) Notwithstanding any other law, and unless release is otherwise required by the State Constitution or the United States Constitution, the court shall presume that no conditions of release can reasonably assure the presence of an unauthorized alien arrested for a violation of this section at his or her trial and must order the unauthorized alien to be detained pending the disposition of the case.

(5) An unauthorized alien who commits a violation of this section is not eligible for a civil citation, prearrest or postarrest diversion program, or other similar program, including, but not limited to, any program described in s. 901.41 or s. 921.00241.

(6) Upon making an arrest for a violation of this section, the arresting law enforcement agency shall:

(a) Notify Immigration and Customs Enforcement of the United States Department of Homeland Security of the unauthorized alien's arrest and provide any known information relating to the unauthorized alien; and

(b) Notify the Department of Law Enforcement of the unauthorized alien's arrest and provide information relating to the unauthorized alien, which must include his or her fingerprints, photograph, and any other biometric information necessary to identify the unauthorized alien.

Section 5. Section 921.1426, Florida Statutes, is created to read:

921.1426 Sentence of death for capital offense committed by unauthorized alien.—Notwithstanding any provision of law to the contrary, the court shall sentence a defendant who is an unauthorized alien and who is convicted or adjudicated guilty of a capital felony to a sentence of death. As used in this section, the term “unauthorized alien” has the same meaning as in s. 908.111.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor February 13, 2025.

Filed in Office Secretary of State February 13, 2025.