

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1362

6 By: Hardin and Worthen

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending
9 Section 2, Chapter 224, O.S.L. 2024 (21 O.S. Supp.
10 2024, Section 1795), which relates to unlawful
11 immigration; making certain acts unlawful; providing
12 penalties; providing for the posting of a cash bond;
13 remanding persons to the custody of the Department of
14 Corrections; directing the Department to notify
15 certain federal agency to arrange transportation; and
16 declaring an emergency.

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

18 SECTION 1. AMENDATORY Section 2, Chapter 224, O.S.L.
19 2024 (21 O.S. Supp. 2024, Section 1795), is amended to read as
20 follows:

21 Section 1795. A. As used in this section, the term "alien"
22 means any person not a citizen or national of the United States.

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

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

11 ~~2. Any second or subsequent offense for an impermissible~~
12 ~~occupation pursuant to the provisions of subsection B of this~~
13 ~~section, or any such offense committed during the commission of any~~
14 ~~other crime shall, upon conviction, be guilty of a felony punishable~~
15 ~~by imprisonment in the custody of the Department of Corrections for~~
16 ~~a term of not more than two (2) years, or by a fine of not more than~~
17 ~~One Thousand Dollars (\$1,000.00), or by both such fine and~~
18 ~~imprisonment. In addition, the person shall be required to leave~~
19 ~~the state within seventy-two (72) hours following his or her~~
20 ~~conviction or release from custody, whichever comes later~~ Any person
21 who is apprehended and arrested for violating a criminal law of this
22 state, and after determining the citizenship status of the person is
23 found to be unlawfully present in the United States, shall be guilty
24 of a felony punishable by imprisonment in the custody of the

1 Department of Corrections for a term of not less than five (5)
2 years.

3 C. A person arrested for a violation of this section may be
4 allowed to post a cash bond in an amount of not less than Thirty-
5 five Thousand Dollars (\$35,000.00).

6 D. In lieu of the sentence of imprisonment, the court shall
7 have the authority to dismiss the criminal prosecution and issue a
8 written order discharging the person and requiring said individual
9 to return to his or her country of origin if:

10 1. The person agrees to the written order;

11 2. The person has not previously been convicted of a violent
12 crime, as provided for in Section 571 of Title 57 of the Oklahoma
13 Statutes, in this state or another state; and

14 3. The person is not charged with another felony offense.

15 Upon issuance of the written order, the court shall direct the
16 law enforcement agency having custody of the person to remand the
17 person to the custody of the Department of Corrections with
18 instructions to return the person to his or her country of origin.

19 E. Once the Department of Corrections receives custody of the
20 person, the Department of Corrections shall notify the United States
21 Customs and Border Protection of the Department of Homeland Security
22 within seven (7) days to arrange transportation for the repatriation
23 of said person back to his or her country of origin.

24

1 ~~D.~~ F. Any alien who has been denied admission, excluded,
2 deported, or removed, or has departed the United States while an
3 order of exclusion, deportation, or removal is outstanding, and
4 thereafter enters, attempts to enter, or is at any time found in
5 Oklahoma shall, upon conviction, be guilty of a felony and shall be
6 punished in accordance with the provisions set forth in ~~paragraph 2~~
7 ~~of~~ subsection C B of this section, unless:

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

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

15 ~~E.~~ G. The arresting law enforcement agency shall collect all
16 available identifying information of the person including all
17 fingerprints and any other applicable photographic and biometric
18 data to identify the person. Once obtained, the law enforcement
19 agency shall cross-reference the collected information with:

20 1. All relevant local, state, and federal criminal databases;
21 and

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

1 The Oklahoma State Bureau of Investigation shall have the
2 authority to collect and maintain the identifying information
3 collected by law enforcement agencies pursuant to the provisions of
4 this subsection.

5 ~~F.~~ H. It shall be an affirmative defense to prosecution under
6 the provisions of ~~paragraphs 1 and 2 of~~ subsection ~~C~~ B of this
7 section that:

- 8 1. The federal government has granted the defendant:
 - 9 a. lawful presence in the United States, or
 - 10 b. asylum under Section 1158 of Title 8 of the United
11 States Code; or
- 12 2. The defendant was approved for benefits under the federal
13 Deferred Action for Childhood Arrivals program between June 15,
14 2012, and July 16, 2021.

15 ~~G.~~ I. Any person convicted of an offense pursuant to the
16 provisions of this section shall not be eligible for probation or
17 delayed sentencing.

18 ~~H.~~ J. The Legislature finds that the presence of persons who
19 are unauthorized to be present within the State of Oklahoma is a
20 matter of statewide concern. Therefore, the Legislature hereby
21 occupies and preempts the entire field of legislation in this state
22 regarding the presence of persons who have entered and remained in
23 this state without first having obtained the legal authorization to
24 do so. Any municipality or other political subdivision of this

1 state shall be prohibited from adopting any ordinance, regulation,
2 resolution, rule, or policy that conflicts with the provisions of
3 this act.

4 SECTION 2. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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