

By Senator Bennett

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1 A bill to be entitled

2 An act relating to illegal or undocumented aliens;
3 creating s. 775.0865, F.S.; requiring that the court
4 reclassify a felony or misdemeanor offense to the next
5 higher degree if the offense is the second or subsequent
6 offense committed by an illegal or undocumented alien who
7 has unlawfully reentered the United States after
8 deportation; providing for application of the severity
9 ranking chart of the Criminal Punishment Code; defining
10 the term "illegal or undocumented alien"; creating s.
11 944.5965, F.S.; requiring that the Department of
12 Corrections provide to the United States Department of
13 Homeland Security certain information concerning inmates
14 who are suspected of being illegal or undocumented aliens;
15 requiring that the department transfer an illegal or
16 undocumented alien to the custody of the United States
17 Department of Homeland Security upon completion of
18 sentence; providing procedures for the Department of
19 Corrections to transfer illegal or undocumented aliens who
20 voluntarily choose to return to their country of origin;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 775.0865, Florida Statutes, is created
26 to read:

27 775.0865 Crimes committed by an illegal or undocumented
28 alien; felony or misdemeanor reclassification.--

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29 (1) If an illegal or undocumented alien is convicted of
30 committing a felony or misdemeanor in this state and:

31 (a) Has previously been convicted of a felony or
32 misdemeanor in this state;

33 (b) Has been deported to his or her home country by the
34 Bureau of Immigration and Customs Enforcement of the United
35 States Department of Homeland Security; and

36 (c) Has reentered the United States without legal
37 authorization and documentation,

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39 the court shall reclassify the felony or misdemeanor to the next
40 higher degree as provided in this section.

41 (2) The reclassification shall be made in the following
42 manner:

43 (a) In the case of a misdemeanor of the second degree, the
44 offense shall be reclassified as a misdemeanor of the first
45 degree.

46 (b) In the case of a misdemeanor of the first degree, the
47 offense shall be reclassified as a felony of the third degree.

48 (c) In the case of a felony of the third degree, the
49 offense shall be reclassified as a felony of the second degree.

50 (d) In the case of a felony of the second degree, the
51 offense shall be reclassified as a felony of the first degree.

52 (e) In the case of a felony of the first degree or a felony
53 of the first degree punishable by a term of imprisonment not
54 exceeding life, the offense shall be reclassified as a life
55 felony.

56 (3) For purposes of sentencing under chapter 921, the
57 following offense severity ranking levels apply:

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58 (a) An offense that is a misdemeanor of the first degree
59 and that is reclassified under this section as a felony of the
60 third degree shall be ranked in level 2 of the offense severity
61 ranking chart.

62 (b) A felony offense that is reclassified under this
63 section shall be one level above the ranking specified in s.
64 921.0022 or s. 921.0023 for the offense committed.

65 (4) As used in this section, the term "illegal or
66 undocumented alien" means a person who:

67 (a) Is not a citizen of the United States;

68 (b) Has entered the United States in violation of federal
69 law;

70 (c) Is not lawfully present in the United States; or

71 (d) Has legally entered the United States subject to a time
72 limit but has remained illegally in the United States after the
73 expiration of the time limit.

74 Section 2. Section 944.5965, Florida Statutes, is created
75 to read:

76 944.5965 List of suspected illegal or undocumented aliens;
77 notifications to the United States Department of Homeland
78 Security; voluntary transfer of illegal or undocumented aliens to
79 their countries of origin; procedures.--

80 (1) The department shall compile monthly a list of persons
81 suspected to be illegal or undocumented aliens who are serving a
82 sentence in a correctional institution in this state. The list
83 shall include the earliest possible date of release of the
84 offender, whether through expiration of the term of the imposed
85 sentence, parole, or other means. The department shall provide a
86 copy of the list to the Immigration and Customs Enforcement

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87 Section of the United States Department of Homeland Security so
88 that the section may determine whether it wishes to take custody
89 of the suspected illegal or undocumented aliens. If the
90 Immigration and Customs Enforcement Section indicates that it
91 wishes to take custody of an inmate, the department is
92 responsible for the inmate until the section takes physical
93 custody of the inmate.

94 (2) The department, pursuant to a valid detainer lodged
95 against an illegal or undocumented alien who is not legally
96 present in the United States and who has been convicted of or has
97 pled guilty to a felony, shall transfer that alien to the custody
98 of the Immigration and Customs Enforcement Section of the United
99 States Department of Homeland Security upon completion of the
100 alien's prison term.

101 (3) The department may at any time interview inmates
102 appearing on the monthly list of persons suspected to be illegal
103 or undocumented aliens who are serving a sentence in a
104 correctional institution in this state. The department may ask
105 the inmate whether he or she would prefer to finish his or her
106 sentence in the correctional facility or whether he or she would
107 prefer to be released from incarceration and returned to his or
108 her country of origin. If the inmate voluntarily agrees to be
109 returned to his or her country of origin, the department shall
110 purchase for the inmate a one-way airplane ticket to the inmate's
111 country of origin. The department shall transfer the inmate to
112 the county jail in the county of the airport from which the
113 inmate will depart. At the time of departure, deputies of the
114 sheriff shall escort the inmate from the county jail to the

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115 appropriate airplane and may not leave the airport boarding area
116 until the airplane is airborne.

117 Section 3. This act shall take effect July 1, 2008.