



State of Tennessee

PUBLIC CHAPTER NO. 998

HOUSE BILL NO. 2774

By Representatives McCalmon, Bulso, Rudd, Davis, Capley, Carr, Littleton, Alexander, Carringer, Doggett, Cochran, Fritts, Hulsey, Sherrell, Williams, Brock Martin, Rudder, Boyd, Zachary, Garrett, Powers, Gant, Butler, Hazlewood, Todd, Burkhart, Kumar, Bricken, Terry, Barrett, Keisling, Hawk, Helton-Haynes, Moon, Travis, Vital, Cepicky, Richey, Hurt, Raper, White, Moody, Grills, Ragan

Substituted for: Senate Bill No. 2158

By Senators Haile, Yager, Jackson, Stevens, White, Hensley, Lundberg, Rose

AN ACT to amend Tennessee Code Annotated, Title 4, relative to illegal immigration.

WHEREAS, the United States, as every other nation, has the sovereign right to determine the number and character of aliens permitted to cross its border and the time, place, and manner of their entry; and

WHEREAS, consistent with this timeless principle, the United States Congress has exercised its constitutional authority to enact laws to prevent the entry of aliens without lawful authorization to protect the health, safety, welfare, and prosperity of Americans; and

WHEREAS, illegal entry and reentry to the United States, as well as the encouragement and inducement of illegal entry and the transport of illegal aliens within the United States, are criminal offenses under federal law, and those who aid and abet these offenses also commit a criminal act; and

WHEREAS, the Biden Administration, since its inception, has failed to prevent the illicit entry of aliens and has, furthermore, enacted policies designed to undermine the rule of law and encourage and induce the illegal entry of historic numbers of aliens contrary to law; and

WHEREAS, President Joe Biden has thus failed to fulfill his constitutional duties to preserve, protect, and defend the Constitution of the United States to the best of his ability and take care that the laws be faithfully executed; and

WHEREAS, the Biden Administration has systematically dismantled every institution provided by the United States Congress and established by previous administrations to prevent illegal immigration, thereby aiding and abetting the illegal entry into the United States of millions of aliens at the southern border; and

WHEREAS, from January 20, 2021, to the present, the Biden Administration has overseen the largest wave of illegal immigration in this nation's history, with more than three million, eight hundred thousand (3,800,000) aliens illegally entering and remaining in the United States; and

WHEREAS, Congressional reporting estimates that the border crisis created by the Biden Administration costs American taxpayers approximately four hundred fifty-one billion dollars (\$451,000,000,000) annually; and

WHEREAS, the Biden Administration's abandonment of any semblance of border security and immigration enforcement has created historic public safety and humanitarian crises affecting states in the southern border region and beyond; and

WHEREAS, the United States Supreme Court has recognized that States "bear[] many of the consequences of unlawful immigration." *Arizona v. United States*, 567 U.S. 387, 397 (2012); and

WHEREAS, Congressional reporting estimates the illegal alien population in the United States is between sixteen million eight hundred thousand (16,800,000) and twenty-nine million (29,000,000) persons; and

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WHEREAS, the overwhelming majority of crimes perpetrated by illegal aliens are for violations of state law, which require substantial state and local resources to investigate, prosecute, adjudicate, incarcerate, and supervise criminal offenders; and

WHEREAS, as a result of the Biden Administration's non-enforcement policies, large numbers of criminal aliens are released into communities across the United States rather than being detained or removed, allowing these criminal aliens to commit additional crimes and increase the number of victims; and

WHEREAS, states are financially burdened by the cost of incarcerating illegal aliens in their prison systems. Although the United States Department of Justice provides limited funding to the states to offset some of these costs through the State Criminal Alien Assistance Program (SCAAP), congressional reporting found that SCAAP reimbursements are usually less than one percent (1%) of the total cost of incarcerating illegal aliens, leaving the states to pay the balance; and

WHEREAS, the destabilization of the southern border regulation due to the Biden Administration's failure to secure the border has led to a surge in fentanyl smuggling into the United States by Mexican drug cartels. Fentanyl poisoning is now the leading cause of death for Americans between the ages of eighteen (18) and forty-five (45) years of age; and

WHEREAS, Congressional reporting found that the estimated cost of Medicaid fraud attributable to illegal aliens in fiscal year 2022 was eight billion dollars (\$8,000,000,000); and

WHEREAS, more than four hundred thousand (400,000) unaccompanied alien children (UAC) have entered the United States since January 20, 2021, many of whom have been the victims of human smuggling or trafficking. Federal officials in the Biden Administration released approximately three hundred thirty-seven thousand (337,000) UACs to sponsors throughout the United States between fiscal years 2021–2023; and

WHEREAS, the Biden Administration changed longstanding policies on vetting UAC sponsors, resulting in UACs being placed with non-family members and criminals, who trafficked, abused, and exploited the children placed in their care. Media reports from 2023 found that the Biden Administration had lost track of approximately eighty-five thousand (85,000) UACs; and

WHEREAS, it is unclear how many UACs now reside in this state who may be at risk of being trafficked, abused, or exploited after initially being placed with sponsors who had not been properly vetted by federal officials in the Biden Administration. The significant increase in the number of UACs placed with unvetted sponsors in this state, who may be at greater risk of abuse or neglect, will place additional strains on the limited resources of the agencies of this state that provide welfare services and care for children; and

WHEREAS, Congressional reporting estimates that at least three million eight hundred thousand (3,800,000) illegal alien children at primary and secondary schools in the United States qualify as Limited English Proficiency (LEP) students, costing American taxpayers nearly fifty-nine billion dollars (\$59,000,000,000); and

WHEREAS, Tennessee has a compelling interest in preventing crime, promoting the health, safety, and education of its citizens, protecting children from abuse and exploitation, and conserving the financial resources of the State; and

WHEREAS, illegal immigration causes substantial economic and societal harms to Tennessee and its citizens, including greater expenditures of non-reimbursable public funds in the areas of criminal justice, health care, education, welfare benefits and subsidized housing, and child protective services; and

WHEREAS, the Tennessee attorney general and reporter, along with attorneys general of several other states harmed by the adverse effects of unrestrained illegal immigration have filed numerous lawsuits against the Biden Administration and its agencies to end the illegality and prevent further harm to the states and their citizens; and

WHEREAS, the United States Supreme Court and inferior federal courts have held that the states must establish, among other elements, that they have suffered a concrete,

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particularized, and actual or imminent injury in fact, that is fairly traceable to the unlawful conduct of the federal officials to satisfy the "case or controversy" requirement of Article III of the Constitution of the United States; and

WHEREAS, Biden Administration officials routinely deny that their unlawful conduct or illegal immigration causes harm, and federal courts have generally required Tennessee and other states to offer proof that illegal immigrants are causing specific harms to those states or their citizens; and

WHEREAS, because federal officials within the Biden Administration refuse requests by states to provide relevant information within their custody and control regarding the number and location of illegal immigrants and other crucial data concerning border security, the full nature and extent of the harms to Tennessee and its citizens as the result of illegal immigration have not been determined with a reasonable degree of accuracy; and

WHEREAS, the refusal by federal officials to cooperate with the states in sharing information regarding their mutual interest in illegal immigration violates constitutional principles of federalism and statutory mandates on federal officials to respond in good faith to requests by states to provide information; and

WHEREAS, the lack of transparency and failure by federal officials to provide crucial information on illegal immigrants in Tennessee, including their biographic information, relevant details from their immigration history, criminal background, and last-known residence presents an unreasonable risk to Tennessee and its citizens; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 1, Part 4, is amended by adding the following as a new section:

(a) Beginning January 1, 2025, the district attorneys general conference shall collect and analyze data from law enforcement agencies on the number of persons not lawfully present in the United States charged or convicted of a criminal offense in this state during the previous year. To prepare the report, a district attorneys general conference may consult with the Tennessee bureau of investigation, the department of safety, the department of correction, and other law enforcement agencies, to the extent those agencies may provide information in compliance with state and federal law. On or before January 31, 2025, and each January 31 thereafter, the Tennessee district attorneys general conference shall submit a report to the governor and the speakers of the senate and house of representatives. The report must provide the numbers by judicial district.

(b) The Tennessee district attorneys general conference shall publish the report on one (1) or more publicly available websites, which must include, but is not limited to, a publicly available website of the Tennessee district attorneys general conference.

(c) The department of correction shall report to the governor and the speakers of the senate and house of representatives on or before January 31, 2026, and each January 31 thereafter, the cost incurred by this state to hold persons not lawfully present in the United States convicted of a criminal offense in the previous year, in comparison with the total cost incurred by this state to hold all persons convicted of a criminal offense during the same period.

(d) For purposes of this section, an individual is "not lawfully present in the United States" if:

(1) The individual cannot provide:

(A) A social security card or number that can be verified with the social security administration in accordance with federal law;

(B) A valid Tennessee driver license or photo identification license issued by the department of safety;

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(C) A permanent resident card, also known as a green card, issued by the United States citizenship and immigration services;

(D) An F-1 or M-1 student visa, issued by the United States department of state;

(E) A J-1 visa, issued by the United States department of state;

(F) An official birth certificate issued by a state, jurisdiction, or territory of the United States or a United States government-issued certified birth certificate;

(G) A valid, unexpired United States passport;

(H) A certificate of citizenship (form N560 or N561);

(I) A certificate of naturalization (form N550, N570, or N578);

(J) A B-2 visa, issued by the United States department of state; or

(K) A valid, unexpired e-passport issued by a foreign country and an Electronic System for Travel Authorization approval issued by the United States department of state through the Visa Waiver Program; or

(2) The individual has been granted parole under 8 U.S.C. § 1182(d)(5), temporary protected status, deferred action, deferred enforced departure, or similar exercise of administrative grace or prosecutorial discretion.

(e) If an individual cannot produce the documentation listed in subdivision (d)(1), then a law enforcement officer may presume the individual is lawfully present in the United States based on the officer's personal knowledge of the individual.

(f) This section is repealed July 1, 2032.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.

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PASSED: April 25, 2024



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 21st day of May 2024



BILL LEE, GOVERNOR