MISSISSIPPI LEGISLATURE REGULAR SESSION 2026

By: Senator(s) Hill, McLendon, McMahan, Seymour

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2114

AN ACT TO DEFINE TERMS; TO AUTHORIZE THE DEPARTMENT OF PUBLIC SAFETY TO DETERMINE THE NUMBER AND IDENTITIES OF ALL ILLEGAL ALIENS RESIDING IN THE STATE OF MISSISSIPPI; TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO ENFORCE THE IMMIGRATION LAWS AS AUTHORIZED PURSUANT TO FEDERAL LAWS AND THE LAWS OF THIS STATE; TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY AS SOON AS POSSIBLE; TO REQUIRE EACH LAW ENFORCEMENT AGENCY OPERATING A COUNTY DETENTION FACILITY TO EXECUTE A WRITTEN AGREEMENT WITH THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY TO PARTICIPATE IN THE IMMIGRATION PROGRAM ESTABLISHED UNDER SECTION 287(G); TO PROVIDE A FELONY OFFENSE FOR A PERSON WHO IS AN ALIEN, REGARDLESS OF NATIONAL ORIGIN, AND ENTERS OR ATTEMPTS TO ENTER THIS STATE DIRECTLY FROM A FOREIGN NATION AT ANY LOCATION OTHER THAN A LAWFUL PORT OF ENTRY; TO PROVIDE A FELONY OFFENSE, IN ADDITION TO ANY EXISTING PENALTY FOR THE UNDERLYING CRIME, FOR A PERSON WHO IS ARRESTED FOR CERTAIN CRIMINAL OFFENSES AND IS DETERMINED TO BE AN ILLEGAL ALIEN, REGARDLESS OF NATIONAL ORIGIN, AND UNLAWFULLY PRESENT IN THE UNITED STATES; TO AUTHORIZE A SENTENCING COURT TO ISSUE A WRITTEN ORDER DISCHARGING THE PERSON AND REQUIRING SAID INDIVIDUAL TO RETURN TO HIS OR HER COUNTRY OF ORIGIN; TO DIRECT THE COURT TO REMAND THE PERSON SUBJECT TO THE ORDER TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS; TO REQUIRE THE DEPARTMENT OF CORRECTIONS TO NOTIFY THE UNITED STATES CUSTOMS AND BORDER PROTECTION OF THE DEPARTMENT OF HOMELAND SECURITY TO ARRANGE TRANSPORTATION FOR THE REPATRIATION OF THE PERSON BACK TO HIS OR HER COUNTRY OF ORIGIN; TO PROVIDE CERTAIN AFFIRMATIVE DEFENSES TO PROSECUTION UNDER THIS ACT; TO PROVIDE THAT A DEFENDANT CHARGED OR CONVICTED UNDER THIS ACT IS NOT ELIGIBLE FOR EXPUNCTION, AN INTENSIVE SUPERVISION PROGRAM, NONADJUDICATION, PAROLE, OR ANY EARLY RELEASE PROGRAM; TO PROVIDE FOR SEVERABILITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in this act, the following words have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Alien" has the meaning assigned by 8 USC § 1101, as that provision existed on January 1, 2023.

(b) "Commissioner" means the Commissioner of the Department of Public Safety.

(c) "Crime of violence" means any crime classified as a crime of violence under Section 97-3-2.

(d) "Department" means Department of Public Safety unless otherwise specified.

(e) "Port of entry" means a port of entry in the United States as designated by 19 C.F.R. Part 101.

(f) "Sex offense" has the meaning assigned under Section 45-33-23(h).

SECTION 2. (1) The department shall use all lawful investigative means available, including direct law enforcement requests to the United States Department of Homeland Security, coordination with Mississippi airport and port authorities, requests for information under the Freedom of Information Act (5 USC § 552) or the Mississippi Public Records Act, as applicable, or any other lawful means, to determine, on an ongoing basis, the number and identities of all illegal aliens residing in the State of Mississippi.

(2) To the extent permitted by law, the information collected by the department, as provided in subsection (1) of this section, shall include:

(a) The name and country of origin of the illegal alien;

(b) Whether the illegal alien is an adult or minor;

(c) The criminal history of the illegal alien, including whether the alien has previously entered the United States illegally;

(d) The name and address of the sponsor of each illegal alien, if applicable; and the date, location, and status of attempted removal proceedings for each illegal alien, if applicable.

(3) The department shall, where permitted by law, coordinate with state and local officials to share information on any individual reasonably suspected of involvement in the commission of offenses that would constitute a violation of Mississippi law, including any state offense for human trafficking or drug trafficking, in an effort to detect, prevent, and mitigate threats to public safety within the State of Mississippi.

SECTION 3. (1) The department shall designate such agents and other personnel that the commissioner deems necessary and proper to enforce the immigration laws as authorized pursuant to federal laws and the laws of this state.

(2) The department shall execute a memorandum of agreement with the United States Immigration and Customs Enforcement Agency pursuant to Section 287(g) of the Immigration and Nationality Act, 8 USC § 1357 as soon as possible, but no later than one hundred twenty (120) days, after the effective date of this act, with the purpose of facilitating and encouraging cooperation under the Section 287(g) program by every county and municipality of this state.

(3) Nothing in this section may be construed to prevent other law enforcement agencies of the state and political subdivisions of the state, including local law enforcement agencies, from enforcing immigration laws as authorized pursuant to federal laws and the laws of this state.

SECTION 4. (1) By October 1, 2026, each law enforcement agency operating a county detention facility shall execute a written agreement with the United States Immigration and Customs Enforcement to participate in the immigration program established under Section 287(g) of the Immigration and Nationality Act, 8 USC § 1357. The requirement under this subsection does not require a law enforcement agency to participate in a particular program model.

(2) Beginning no later than October 1, 2026, and until the law enforcement agency enters into the written agreement required under subsection (1) of this section, each law enforcement agency operating a county detention facility shall notify the department

quarterly of the status of such written agreement and any reason for noncompliance with this section, if applicable.

SECTION 5. (1) A person who is an alien, regardless of national origin, and enters or attempts to enter this state directly from a foreign nation at any location other than a lawful port of entry shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than two (2) years.

(2) (a) A person who is arrested for a criminal offense against the laws of this state that, upon conviction, would be punishable by imprisonment for a term of three (3) months or more and who is determined to be an illegal alien, regardless of national origin, and unlawfully present in the United States shall, in addition to any penalty for the underlying crime, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than two (2) years.

(b) A person convicted under paragraph (a) of this subsection who was arrested for a crime of violence or a sex offense may be sentenced to a term of imprisonment of up to five (5) years in addition to the penalty authorized in paragraph (a) of this subsection.

(3) In lieu of prosecution of the crimes authorized in this section, for any person not charged with a crime of violence or sex offense, the court shall have the authority to issue a written

order discharging the person and requiring said individual to return to his or her country of origin if:

(a) The person agrees to the written order;

(b) The person pays a fine of Thirty-five Thousand Dollars ($35,000.00);

(c) The person has not previously been convicted of a crime of violence or sex offense in this state or an offense in another jurisdiction that is legally equivalent or substantially similar to a crime of violence or sex offense in this state; and

(d) The person is not concurrently or subsequently charged with another felony offense.

(4) (a) Upon issuance of the written order, the court shall direct the law enforcement agency having custody of the person to remand the person to the custody of the Department of Corrections with instructions to return the person to his or her country of origin.

(b) Upon receipt of custody of the person, the Department of Corrections shall notify the United States Customs and Border Protection of the Department of Homeland Security within seven (7) days to arrange transportation for the repatriation of said person back to his or her country of origin.

SECTION 6. (1) It is an affirmative defense to prosecution under this act that:

(a) The federal government has granted the defendant:

(i) Lawful presence in the United States; or

(ii) Asylum under 8 USC § 1158;

(b) The defendant's conduct does not constitute a violation of 8 USC § 1325(a); or

(c) The defendant was approved for benefits under the federal Deferred Action for Childhood Arrivals program between June 15, 2012, and July 16, 2021.

(2) Participation in the following federal programs does not provide an affirmative defense to prosecution under this act:

(a) The Deferred Action for Parents of Americans and Lawful Permanent Residents program; or

(b) Any program not enacted by the United States Congress that is a successor to or materially similar to the program specified in subsection (1)(c) of this section or paragraph (a) of this subsection.

SECTION 7. Notwithstanding any other provision of law, a defendant charged or convicted under this act is not eligible for expunction, an intensive supervision program, nonadjudication, parole under Section 47-7-3 or any early release program under Title 47, Mississippi Code of 1972.

SECTION 8. If any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it

would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words be declared unconstitutional.

SECTION 9. This act shall take effect and be in force from and after July 1, 2026, and shall stand repealed on June 30, 2026.