

By the Committee on Criminal Justice; and Senator Garcia

307-2176-02

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled

An act relating to illegal bringing of certain
aliens into the state; providing definitions;
providing penalties; providing an increased
penalty when a person is seriously injured or
killed as a result of a violation of the act;
providing appropriate sentencing
considerations; providing for videotaped
depositions; providing an effective date.

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

Section 1. Illegal bringing of certain aliens into the
state; definitions; penalties; increased penalties where
serious injury or death results.--

(1) For purposes of this section, the term:

(a) "Alien" means any person who is not a citizen or
national of the United States.

(b) "National of the United States" means a person
who, though not a citizen of the United States, owes permanent
allegiance to the United States.

(2) Except as provided in subsection (3) or subsection
(4), a person who knowingly or in reckless disregard of the
fact that an alien has not received prior official
authorization to come to, enter, or reside in the United
States pursuant to the United States Immigration and
Naturalization Code, section 1101, et seq., brings, attempts
to bring, or conspires to bring into the state in any manner
whatsoever such alien, regardless of any official action which
may later be taken with respect to such alien, commits a
felony of the second degree, punishable as provided in s.

1 775.082, s. 775.083, or s. 775.084, Florida Statutes, for each
2 alien in respect to whom a violation of this subsection
3 occurs.

4 (3) A person who violates subsection (2), during and
5 in relation to which such person causes serious bodily injury
6 to, or places in jeopardy the life of, any other person,
7 commits a felony of the first degree, punishable as provided
8 in s. 775.082, s. 775.03, or s. 775.084, Florida Statutes, for
9 each alien in respect to whom a violation of subsection (2)
10 occurs.

11 (4) A person who violates subsection (2) resulting in
12 the death of another person commits a capital felony,
13 punishable as provided in s. 775.082, Florida Statutes, for
14 each alien in respect to whom a violation of subsection (2)
15 occurs.

16 (5) In determining the appropriate sentence for any
17 violation of this section, the sentencing court may take into
18 consideration a federal offense comparable to the offense
19 under this section for which the defendant is to be sentenced
20 and the maximum penalty provided for such federal offense.

21 (6) Notwithstanding any other section that may be to
22 the contrary, the videotaped or otherwise audiovisually
23 preserved deposition of a witness to a violation of this
24 section who has been deported or otherwise expelled from the
25 United States, or is otherwise unable to testify, may be
26 admitted into evidence in an action brought for such violation
27 if such witness was available for cross-examination and the
28 deposition otherwise complies with the Florida Rules of
29 Evidence.

30 Section 2. This act shall take effect July 1, 2002.

31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1426
4 - Creates a second degree felony for unlawful
5 transportation of aliens into the United States.
6 - Creates aggravated offenses. It makes the unlawful
7 transportation a first degree felony when the violator
8 causes serious bodily injury or places in jeopardy the
9 life of another person. It makes the unlawful
10 transportation a capital felony when the violation
11 results in the death of another person.
12 - Defines "alien" and "national of the United States."
13 - Provides that, in determining the appropriate sentence,
14 the sentencing court is authorized, but not required, to
15 consider federal penalties provided for the federal
16 offenses that are comparable to the Florida offenses.
17 - Provides that the videotaped, or otherwise audiovisually
18 preserved, deposition of a witness to a violation of
19 this new section who has been deported or otherwise
20 expelled from the United States, or is otherwise unable
21 to testify, may be admitted into evidence in an action
22 brought for such violation if such witness was available
23 for cross examination and the deposition otherwise
24 complies with the Florida Rules of Evidence.
25
26
27
28
29
30
31