

SECOND REGULAR SESSION

HOUSE BILL NO. 2470

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DINKINS.

5171H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 577.675 and 577.685, RSMo, and to enact in lieu thereof eleven new sections relating to illegal aliens, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 577.675 and 577.685, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 537.656, 537.657, 537.658, 544.182, 544.245, 545.835, 569.088, 577.675, 577.683, 577.685, and 577.687, to read as follows:

537.656. 1. Except as provided under subsection 4 of this section, a local government official, employee, or contractor is immune from liability for damages arising from a cause of action under state law resulting from an action taken by the official, employee, or contractor to enforce sections 577.683 to 577.687 or an order issued under section 544.245 during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government.

2. Subject to subsection 3 of this section and except as provided under subsection 4 of this section, a local government shall indemnify an official, employee, or contractor of the local government for damages arising from a cause of action under federal law resulting from an action taken by the official, employee, or contractor to enforce sections 577.683 to 577.687 or an order issued under section 544.245 during the course and scope of the official's, employee's, or contractor's office, employment, or contractual performance for or service on behalf of the local government.

3. Indemnification payments made under subsection 2 of this section by a local government shall not exceed:

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(1) One hundred thousand dollars to any one person or three hundred thousand**
18 **dollars for any single occurrence in the case of personal injury or death; or**

19 **(2) Ten thousand dollars for a single occurrence of property damage.**

20 **4. Subsections 1 and 2 of this section shall not apply if the court or jury**
21 **determines that the local government official, employee, or contractor acted in bad**
22 **faith, with conscious indifference, or with recklessness.**

23 **5. A local government shall indemnify an official, employee, or contractor of the**
24 **local government for reasonable attorney's fees incurred in defense of a criminal**
25 **prosecution against the official, employee, or contractor for an action taken by the**
26 **official, employee, or contractor to enforce sections 577.683 to 577.687 or an order**
27 **issued under section 544.245 during the course and scope of the official's, employee's, or**
28 **contractor's office, employment, or contractual performance for or service on behalf of**
29 **the local government.**

30 **6. This section shall not be construed to waive any statutory limits on damages**
31 **under state law.**

537.657. 1. Except as provided under subsection 4 of this section, an elected or
2 **appointed state official or a state employee or contractor is immune from liability for**
3 **damages arising from a cause of action under state law resulting from an action taken**
4 **by the official, employee, or contractor to enforce sections 577.683 to 577.687 or an**
5 **order issued under section 544.245 during the course and scope of the official's,**
6 **employee's, or contractor's office, employment, or contractual performance for or**
7 **service on behalf of the state.**

8 **2. Except as provided under subsection 4 of this section, the state shall indemnify**
9 **an elected or appointed state official or a state employee or contractor for damages**
10 **arising from a cause of action under federal law resulting from an action taken by the**
11 **official, employee, or contractor to enforce sections 577.683 to 577.687 or an order**
12 **issued under section 544.245 during the course and scope of the official's, employee's, or**
13 **contractor's office, employment, or contractual performance for or service on behalf of**
14 **the state.**

15 **3. Notwithstanding any other provision of law, an indemnification payment**
16 **made under subsection 2 of this section shall not be subject to an indemnification limit**
17 **under the laws of this state.**

18 **4. Subsections 1 and 2 of this section shall not apply if the court or jury**
19 **determines that the state official, employee, or contractor acted in bad faith, with**
20 **conscious indifference, or with recklessness.**

21 **5. The state shall indemnify a state official, employee, or contractor for**
22 **reasonable attorney's fees incurred in defense of a criminal prosecution against the**

23 official, employee, or contractor for an action taken by the official, employee, or
24 contractor to enforce sections 577.683 to 577.687 or an order issued under section
25 544.245 during the course and scope of the official's, employee's, or contractor's office,
26 employment, or contractual performance for or service on behalf of the state.

27 6. A state official, employee, or contractor who may be entitled to
28 indemnification under subsection 2 of this section shall be entitled to representation
29 by the attorney general, subject to state law, in an action in connection with which the
30 official, employee, or contractor may be entitled to that indemnification.

31 7. This section shall not be construed to waive any statutory limits on damages
32 under state law.

537.658. Sections 537.656 and 537.657 shall not affect a defense, immunity, or
2 jurisdictional bar available to the state or a local government or an official, employee, or
3 contractor of the state or a local government.

544.182. Notwithstanding any other provision of law, a law enforcement officer
2 shall not arrest or detain a person for purposes of enforcing a provision under sections
3 577.683 to 577.687 if the person is on the premises or grounds of a:

4 (1) Public school as defined in section 160.011 or a private school as defined in
5 section 166.700 for educational purposes;

6 (2) Church, synagogue, or other established place of religious worship;

7 (3) Health care facility as defined in section 198.640, including a facility a state
8 agency maintains or operates to provide health care, or the office of a health care
9 provider as defined in section 191.900, provided that the person is on the premises or
10 grounds of the facility or office for the purpose of receiving medical treatment; or

11 (4) Facility that provides forensic medical examinations to sexual assault
12 survivors, provided that the person is on the premises or grounds of the facility for
13 purposes of obtaining a forensic medical examination and treatment.

544.245. 1. If after a person is arrested for a violation of an offense under section
2 577.683 or 577.685 the person appears before a judge for such violation, the judge may
3 order the person to be released from custody and issue a written order in accordance
4 with subsection 3 of this section.

5 2. The judge presiding over the person's case may, in lieu of continuing a
6 prosecution of an offense under section 577.683 or 577.685, dismiss the charge pending
7 against the person and issue a written order in accordance with subsection 3 of this
8 section.

9 3. A written order authorized under subsection 1 or 2 of this section shall
10 discharge the person and require the person to return to the foreign nation from which
11 the person entered or attempted to enter and shall be issued only if:

- 12 **(1) The person agrees to the order;**
- 13 **(2) The person has not previously been convicted of an offense under sections**
14 **577.683 to 577.687 or previously obtained a discharge under an order described under**
15 **subsection 1 or 2 of this section;**
- 16 **(3) The person is not charged with another offense that is punishable as a class A**
17 **misdemeanor or any higher category of offense; and**
- 18 **(4) Before the issuance of the order, the arresting law enforcement agency:**
- 19 **(a) Collects all available identifying information of the person, which shall**
20 **include taking fingerprints from the person and using other applicable photographic**
21 **and biometric measures to identify the person; and**
- 22 **(b) Cross-references the collected information with:**
- 23 **a. All relevant local, state, and federal criminal databases; and**
- 24 **b. Federal lists or classifications used to identify a person as a threat or potential**
25 **threat to national security.**
- 26 **4. Upon a person's conviction of an offense under sections 577.683 to 577.687, the**
27 **judge shall enter in the judgment in the case an order requiring the person to return to**
28 **the foreign nation from which the person entered or attempted to enter. An order issued**
29 **under this subsection takes effect on the completion of the term of confinement or**
30 **imprisonment imposed by the judgment.**
- 31 **5. An order issued under this section shall include:**
- 32 **(1) The manner of transportation of the person to a port of entry. For purposes**
33 **of this subdivision, "port of entry" means a port of entry into the United States as**
34 **designated by 19 C.F.R. Part 101; and**
- 35 **(2) The law enforcement officer or state agency responsible for monitoring**
36 **compliance with the order.**
- 37 **6. An order issued under this section shall be filed:**
- 38 **(1) With the county clerk of the county in which the person was arrested for an**
39 **order described under subsection 1 of this section; or**
- 40 **(2) With the clerk of the court exercising jurisdiction in the case for an order**
41 **described under subsection 2 or 4 of this section.**
- 42 **7. No later than the seventh day after the date an order is issued under this**
43 **section, the law enforcement officer or state agency required to monitor compliance with**
44 **the order shall report the issuance of the order to the Missouri state highway patrol for**
45 **inclusion in the Missouri automated criminal history system.**
- 545.835. A court shall not abate the prosecution of an offense under sections**
2 **577.683 to 577.687 on the basis that a federal determination regarding the immigration**
3 **status of the defendant is pending or will be initiated.**

569.088. 1. If a person commits an offense in violation of a state law or county or municipal ordinance and it is discovered that the person is not a citizen of the United States and the person has entered or remains in or on any public or private property in this state in violation of 8 U.S.C Section 1325 or 1326, the person shall also be guilty of the offense of trespass by an illegal alien.

2. The offense of trespass by an illegal alien is a class E felony if the other offense the person committed under subsection 1 of this section is an infraction in violation of a state law or a violation of a county or municipal ordinance. The offense of trespass by an illegal alien is a class C felony if the other offense the person committed under subsection 1 of this section is a misdemeanor or felony in violation of state law.

3. The punishment for the offense of trespass by an illegal alien shall be in addition to the punishment for the commission of the offense under subsection 1 of this section.

4. The provisions of this section shall not apply to a person who maintains authorization from the federal government to remain in the United States.

5. For purposes of this section, "illegal alien" means an alien who is not lawfully present in the United States, according to the terms of 8 U.S.C. Section 1101 et seq.

577.675. 1. A person commits the offense of transportation, concealment, or inducement of an illegal alien if he or she knowingly:

(1) Transports~~;~~ or moves~~;~~ or attempts to transport or move any illegal alien;

(2) Conceals, harbors, or shields or attempts to conceal, harbor, or shield an illegal alien from detection in any place in this state, including any building or any means of transportation, if the person knowingly or recklessly disregards the fact that the alien has come to, has entered, or remains in the United States in violation of law; or

(3) Encourages or induces an illegal alien to come to or reside in this state if the person knowingly or recklessly disregards the fact that such coming to, entering, or residing in this state is or will be in violation of law.

2. For purposes of this section, the term "illegal alien" means any illegal alien who is not lawfully present in the United States, according to the terms of 8 U.S.C. Section 1101~~;~~ et seq., and who is transported, concealed, or induced for the purposes of trafficking in violation of sections 566.200 to 566.215, drug trafficking in violation of sections 579.065 and 579.068, prostitution in violation of chapter 567, or employment.

~~[2-]~~ **3. The offense of transportation, concealment, or inducement of an illegal alien is a class ~~[D]~~ A felony with a minimum term of imprisonment of not less than ten years.**

~~[3-]~~ **4. Nothing in this section shall be construed to deny any victim of an offense under sections 566.200 to 566.215 of rights afforded by the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.**

577.683. 1. A person who is an illegal alien commits the offense of illegal entry if the person enters or attempts to enter this state directly from a foreign nation at any location other than a lawful port of entry as defined under section 544.245.

2. The offense of illegal entry is a class B misdemeanor unless the person has been previously convicted of an offense under this section in which case it is a class E felony.

3. It shall be an affirmative defense to a prosecution under this section that:

(1) The federal government has granted the person:

(a) Lawful presence in the United States; or

(b) Asylum under 8 U.S.C. Section 1158;

(2) The person's conduct does not constitute a violation of 8 U.S.C. Section 1325 (a); or

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

4. The following federal programs shall not provide an affirmative defense for purposes of subdivision (1) of subsection 3 of this section:

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

(2) Any program not enacted by the United States Congress that is a successor to or materially similar to the program under subdivision (1) of this subsection or subdivision (3) of subsection 3 of this section.

5. Notwithstanding any other provision of law, a person convicted under this section shall not be granted suspended imposition or execution of sentence.

6. For purposes of this section, "illegal alien" means an alien who is not lawfully present in the United States, according to the terms of 8 U.S.C. Section 1101 et seq.

577.685. 1. A person commits the offense of illegal reentry if he or she has been removed from the United States for any of the reasons listed under 8 U.S.C. Section 1326(b) and thereafter:

(1) Illegally enters this state and commits a misdemeanor offense of assault or domestic assault under chapter 565, any dangerous felony offense as the term "dangerous felony" is defined in section 556.061, any felony offense under chapter 579, with the exception of any offense involving the possession of marijuana, any offense under section 570.030, or any offense under section 570.217; or

(2) Commits an offense in any other state that would be considered a misdemeanor offense of assault or domestic assault under chapter 565, any dangerous felony offense as the term "dangerous felony" is defined in section 556.061, any felony offense under chapter 579, with the exception of any offense involving the possession of marijuana, any offense under

13 section 570.030, or any offense under section 570.217 under the laws of this state, and
14 thereafter enters this state.

15 2. The offense of illegal reentry is a class C felony.

16 3. **Notwithstanding any other provision of law, a person convicted under this**
17 **section shall not be eligible for suspended imposition or execution of sentence or parole.**

577.687. 1. A person who is an illegal alien commits the offense of refusal to
2 **comply with an order to return to a foreign nation if:**

3 (1) **The person has been charged with or convicted of an offense under section**
4 **577.683 or 577.685;**

5 (2) **A judge has issued an order under section 544.245 for the person to return to**
6 **the foreign nation from which the person entered or attempted to enter; and**

7 (3) **The person refuses to comply with the order.**

8 2. **The offense of refusal to comply with an order to return to a foreign nation is**
9 **a class B felony.**

10 3. **Notwithstanding any other provision of law, a person convicted under this**
11 **section shall not be eligible for suspended imposition or execution of sentence or parole.**

12 4. **For purposes of this section, "illegal alien" means an alien who is not lawfully**
13 **present in the United States, according to the terms of 8 U.S.C. Section 1101 et seq.**

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