

## HB 1617 – Unlawful Immigration

This bill amends multiple statutes. First, it amends s. 97.051, F.S., adding the following to the oath upon registering to vote (new language in bold): “I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, **that I am a citizen of the United States and a legal resident of Florida**, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true.” This could impact the current Level 1, 3<sup>rd</sup> degree felony under s. 104.011, F.S. for “a person who willfully swears or affirms falsely to any oath or affirmation, or willfully procures another person to swear or affirm falsely to an oath or affirmation, in connection with or arising out of voting or elections.”

This bill also amends s. 448.095, F.S., updating requirements for verifying a person’s employment eligibility, such as requiring the use of the E-Verify system within 30 days, and retaining “a copy of the official verification generated by the E-Verify system and any supporting documentation used to generate the verification for at least 3 years after the date the verification was generated.” These changes would impact the 2<sup>nd</sup> degree misdemeanor for a second violation of “any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.” Further amending s. 448.095, F.S., it is stated that “a person who has a good faith belief that an employer is employing an unauthorized alien may file a complaint with the department” and that “a person who knowingly files a false or frivolous complaint under this subsection, including any complaint that violates federal law” would now commit a **2<sup>nd</sup> degree misdemeanor**. Furthermore, it is added that “any person who knowingly uses a false identification document, or fraudulently uses the identification document of another person, for the purpose of obtaining employment” commits an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)**.

This bill also amends s. 787.07(1), F.S., adding new language to the Level 4, 3<sup>rd</sup> degree for human smuggling (new language in bold): “a person who **knowingly and willfully** transports into **or within** this state an individual **whom** the person knows, or **reasonably** should know, **has entered** the United States **in violation of law and has not been inspected by the United States Government since his or her unlawful entry...or...conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place within this state, including any temporary or permanent structure or any means of transportation, an individual whom the person knows, or reasonably should know, has entered the United States in violation of law and who has not been inspected by the United States Government since his or her unlawful entry.**” This becomes an **unranked, 2<sup>nd</sup> degree felony (Level 4 by default)** under s. 787.07(2), F.S. for a person who commits this violation “by transporting, concealing, harboring, or shielding from detection, or by attempting to transport, conceal, harbor, or shield from detection, within this state, any child younger than 18 years of age.”

Further amending s. 787.07, F.S., changing from subsection (2) to subsection (3), new language is added for the following (new language in bold): “a person commits a separate offense for each individual he or she transports, **conceals, harbors, or shields from detection, or attempts to transport, conceal, harbor, or shield from detection.**” It also adds several more felonies under s. 787.07(4), F.S., including an **unranked, 2<sup>nd</sup> degree felony (Level 4 by default)** for “a person who commits five or more separate offenses...during a single episode.” Additionally, “a person with a prior conviction under this section” who violates s. 787.07(1), F.S. now commits an **unranked, 2<sup>nd</sup> degree felony (Level 4 by default)** and “a person with a prior conviction under this section” for violating s. 787.07(2), F.S. or s. 787.07(4), F.S. now commits an **unranked, 1<sup>st</sup> degree felony (Level 7 by default)**.

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%. In FY 18-19, the incarceration rate for a Level 4, 2nd degree felony was 28.7%, and in FY 19-20 the incarceration rate was 27.3%. In FY 20-21, the incarceration rate for a Level 4, 2nd degree felony was 23.8%, and in FY 21-22 the incarceration rate was 29.7%. In FY 18-19, the incarceration rate for a Level 7, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 7, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.

Per DOC, there have not been any new commitments for violations of s. 104.011, F.S. or s. 787.07, F.S. in the last four fiscal years. S. 440.105(4)(b)9, F.S. does include a felony for “any false, fraudulent, or misleading oral or written statement to any person as evidence of identity for the purpose of obtaining employment or filing or supporting a claim for workers’ compensation benefits.” While there have been 4 new commitments under s. 440.105(4)(f), F.S. in the last four fiscal years, the violations are based on monetary values, and there are multiple prohibited acts that could be the reason for these commitments under s. 440.105(4), F.S. Therefore, it is not known how these amended statutes and the newly created felonies will impact the prison population.

**CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: House**