

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2280

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 11, chapter 7, Arizona Revised Statutes, is amended
3 by adding article 8, to read:

4 ARTICLE 8. ENFORCEMENT OF IMMIGRATION LAWS

5 11-1051. Cooperation and assistance in enforcement of
6 immigration laws

7 A. NO OFFICIAL OR AGENCY OF THIS STATE OR COUNTY, CITY OR TOWN OF THIS
8 STATE MAY ADOPT A POLICY THAT LIMITS THE ENFORCEMENT OF FEDERAL IMMIGRATION
9 LAWS TO THE FULL EXTENT PERMITTED BY FEDERAL LAW. FOR ANY LEGITIMATE CONTACT
10 MADE BY SUCH OFFICIALS, AGENCIES OR PERSONNEL WHERE REASONABLE SUSPICION
11 EXISTS REGARDING THE IMMIGRATION STATUS OF A PERSON, A REASONABLE ATTEMPT
12 SHALL BE MADE TO DETERMINE THE IMMIGRATION STATUS OF THE PERSON. IF THE
13 PERSON WHO IS ARRESTED IS AN ALIEN, THE PERSON'S IMMIGRATION STATUS SHALL BE
14 VERIFIED WITH THE FEDERAL GOVERNMENT PURSUANT TO 8 UNITED STATES CODE SECTION
15 1373(c). IF THE PERSON IS AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED
16 STATES AND THIS STATE OR A LOCAL GOVERNMENTAL ENTITY ELECTS NOT TO PROSECUTE
17 THE PERSON FOR A VIOLATION OF STATE OR LOCAL LAW, THE UNITED STATES
18 IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES CUSTOMS AND BORDER
19 PROTECTION SHALL IMMEDIATELY BE REQUESTED TO TAKE CUSTODY OF THE ALIEN. IF
20 AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES IS ACQUITTED OF ANY
21 VIOLATION OF STATE OR LOCAL LAW, IS DISCHARGED FROM IMPRISONMENT OR PAYS ANY
22 FINE IMPOSED, THE ALIEN SHALL BE TRANSFERRED IMMEDIATELY TO THE CUSTODY OF
23 THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.

24 B. EXCEPT AS PROVIDED IN FEDERAL LAW, OFFICIALS, AGENCIES OR PERSONNEL
25 OF THIS STATE AND COUNTIES, CITIES AND TOWNS OF THIS STATE MAY NOT BE
26 PROHIBITED OR IN ANY WAY BE RESTRICTED FROM SENDING, RECEIVING OR MAINTAINING
27 INFORMATION RELATING TO THE IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF ANY

1 INDIVIDUAL OR EXCHANGING THAT INFORMATION WITH ANY OTHER FEDERAL, STATE OR
2 LOCAL GOVERNMENTAL ENTITY FOR THE FOLLOWING OFFICIAL PURPOSES:

3 1. DETERMINATION OF ELIGIBILITY FOR ANY FEDERAL, STATE OR LOCAL PUBLIC
4 BENEFIT, SERVICE OR LICENSE.

5 2. VERIFICATION OF ANY CLAIM OF RESIDENCE OR DOMICILE IF RESIDENCE OR
6 DOMICILE IS REQUIRED BY LAW OR CONTRACT.

7 3. CONFIRMATION OF THE IDENTITY OF ANY PERSON WHO IS DETAINED.

8 C. A PERSON MAY BRING AN ACTION IN SUPERIOR COURT TO CHALLENGE ANY
9 OFFICIAL OR AGENCY OF THIS STATE OR COUNTY, CITY OR TOWN OF THIS STATE THAT
10 ADOPTS OR IMPLEMENTS A POLICY THAT LIMITS THE ENFORCEMENT OF FEDERAL
11 IMMIGRATION LAWS TO THE FULL EXTENT PERMITTED BY FEDERAL LAW. IF THERE IS A
12 JUDICIAL FINDING THAT AN ENTITY HAS VIOLATED THIS SECTION, THE COURT SHALL
13 ORDER EITHER OF THE FOLLOWING:

14 1. THAT THE PERSON WHO BROUGHT THE ACTION RECOVER COURT COSTS AND
15 ATTORNEY FEES.

16 2. THAT THE ENTITY PAY A CIVIL PENALTY NOT TO EXCEED AN AMOUNT EQUAL
17 TO FIVE THOUSAND DOLLARS FOR EACH DAY THAT THE POLICY HAS REMAINED IN EFFECT
18 AFTER IT HAS BEEN FOUND TO BE IN VIOLATION OF THIS SECTION.

19 Sec. 2. Title 13, chapter 15, Arizona Revised Statutes, is amended by
20 adding section 13-1509, to read:

21 13-1509. Trespassing by illegal aliens; assessment;
22 classification

23 A. IN ADDITION TO ANY VIOLATION OF FEDERAL LAW, IT IS UNLAWFUL FOR AN
24 ALIEN TO ENTER INTO OR BE ON ANY PUBLIC OR PRIVATE LAND IN THIS STATE IF, AT
25 THE TIME OF THE COMMISSION OF THE OFFENSE, THE ALIEN IS IN VIOLATION OF 8
26 UNITED STATES CODE SECTION 1306(a) OR 8 UNITED STATES CODE SECTION 1304(e).

27 B. IN ANY INVESTIGATION BY A LAW ENFORCEMENT OFFICER OF A VIOLATION OF
28 SUBSECTION A, THE LAW ENFORCEMENT OFFICER SHALL VERIFY OR ASCERTAIN THE
29 ALIEN'S IMMIGRATION STATUS THROUGH COMMUNICATION WITH THE UNITED STATES
30 IMMIGRATION AND CUSTOMS ENFORCEMENT PURSUANT TO 8 UNITED STATES CODE SECTION
31 1373(c) AND SHALL NOT INDEPENDENTLY DETERMINE AN ALIEN'S IMMIGRATION STATUS.

1 C. IF THE ALIEN'S IMMIGRATION STATUS IS CONTESTED, THE COURT SHALL
2 CONSIDER ONLY THE FEDERAL GOVERNMENT'S DETERMINATION PURSUANT TO 8 UNITED
3 STATES CODE SECTION 1373(c). A DETERMINATION MADE BY THE FEDERAL GOVERNMENT
4 PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c) SHALL:

- 5 1. CREATE A REBUTTABLE PRESUMPTION OF THE ALIEN'S IMMIGRATION STATUS.
- 6 2. BE ADMISSIBLE THROUGH JUDICIAL NOTICE OR THROUGH AUTOMATED OR
7 TESTIMONIAL VERIFICATION.

8 D. FOR A FIRST OFFENSE, THE ARRESTING AUTHORITY HAS DISCRETION TO
9 TRANSFER THE PERSON TO THE FEDERAL AGENCY WITH JURISDICTION OR REFER THE
10 PERSON FOR PROSECUTION.

11 E. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT THAT A
12 SECOND OR SUBSEQUENT CONVICTION FOR A VIOLATION OF THIS SECTION IS A CLASS 4
13 FELONY. THE PERSON IS NOT ELIGIBLE FOR SUSPENSION OR COMMUTATION OF SENTENCE
14 OR RELEASE ON ANY BASIS UNTIL THE SENTENCE IMPOSED IS SERVED.

15 F. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL
16 ORDER THE PERSON TO PAY JAIL COSTS AND AN ADDITIONAL ASSESSMENT IN THE
17 FOLLOWING AMOUNTS:

- 18 1. AT LEAST FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION.
- 19 2. TWICE THE AMOUNT SPECIFIED IN PARAGRAPH 1 OF THIS SUBSECTION IF THE
20 PERSON WAS PREVIOUSLY SUBJECT TO AN ASSESSMENT PURSUANT TO THIS SUBSECTION.

21 G. A COURT SHALL COLLECT THE ASSESSMENTS PRESCRIBED IN SUBSECTION F OF
22 THIS SECTION AND REMIT THE ASSESSMENTS TO THE DEPARTMENT OF PUBLIC SAFETY,
23 WHICH SHALL ESTABLISH A SPECIAL SUBACCOUNT FOR THE MONIES IN THE ACCOUNT
24 ESTABLISHED FOR THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT
25 MISSION APPROPRIATION. MONIES IN THE SPECIAL SUBACCOUNT ARE SUBJECT TO
26 LEGISLATIVE APPROPRIATION FOR DISTRIBUTION FOR GANG AND IMMIGRATION
27 ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL
28 IMMIGRATION.

29 H. NOTWITHSTANDING SUBSECTION E OF THIS SECTION, IF THE PERSON
30 VIOLATES THIS SECTION WHILE IN POSSESSION OF ANY OF THE FOLLOWING, THE
31 VIOLATION IS A CLASS 2 FELONY:

- 32 1. A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.

1 2. PRECURSOR CHEMICALS THAT ARE USED IN THE MANUFACTURING OF
2 METHAMPHETAMINE IN VIOLATION OF SECTION 13-3404.01.

3 3. A DEADLY WEAPON OR A DANGEROUS INSTRUMENT, AS DEFINED IN SECTION
4 13-105.

5 4. PROPERTY THAT IS USED FOR THE PURPOSE OF COMMITTING AN ACT OF
6 TERRORISM AS PRESCRIBED IN SECTION 13-2308.01."

7 Amend title to conform

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