2025 HOUSE JUDICIARY

HB 1585

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1585
2/3/2025

A BILL for an Act to create and enact a new section to chapter 12-63 of the North Dakota Century Code, relating to a requirement for peace officers to report undocumented immigrants to United States immigration and customs; and to provide a penalty.

11:26 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Schneider

Members Absent: Representative Wolff

Discussion Topics:

- Detaining of illegal immigrants in North Dakota
- Number of illegal immigrants in North Dakota

11:26 a.m. Representative Jim Kasper, North Dakota Representative for District 46, introduced the bill, testified in favor, and provided testimony #33857.

11:41 a.m. Dustin Olson, Burleigh County Sherrif's Department, testified in opposition.

11:44 a.m. Stephanie Engebretson, Chief's of Police Association of North Dakota, testified in opposition.

11:47 a.m. Aaron Birst, North Dakota Association of Counties, testified in opposition.

11:48 a.m. Blair Thoreson, North Dakota Peace Officers Association, testified in opposition.

Additional written testimony:
Andrew Schneider, Sherriff at the Grand Forks County Sheriff's Office, submitted testimony in favor #33859.
Whitney Uran, Minot, North Dakota, submitted testimony in opposition #33275.
Jason Kraft, Administrative Captain at the Ward County Sheriff's Department, submitted testimony in opposition #33680.

11:49 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

Immigrants are 30% less likely to commit crimes and be incarcerated than US born people. We already have a labor shortage in this country. There is NO reason to be passing this bill. It will have devastating economic effects and is inhumane. Not to mention that everyone besides indigenous people are guilty of immigrating to the United States.

WARD COUNTY 1885

Sheriff's Department

Robert Roed
Sheriff

February 3rd, 2025

Chairman Klemin and members of the committee,

For the record my name is Jason Kraft, I am a Captain at the Ward County Sheriff's Department in Minot, and I am providing written testimony in opposition of HB 1585.

Our agency is not opposed to reporting immigration violations to the United States Immigration and Customs Enforcement. As it stands now, when our deputies encounter someone that is illegally in the country, they notify border patrol to see if they want them detained. We are not opposed to assisting with the enforcement of immigration laws.

We are instead opposed to the criminal penalty attached to this bill anytime a law enforcement officer forgets to notify ICE when they reasonably believe someone is an illegal immigrant. For the last 4 years our deputies have notified Border Patrol every time, despite already knowing Border Patrol would decline detention.

The language of this bill seems to assume that law enforcement isn't already doing the right thing. We urge the committee to recommend a do not pass on this bill. Don't inadvertently create a situation where a new or inexperienced officer is suddenly facing an infraction because they make a mistake.

Sincerely,

Jason Kraft, Captain
Ward County Sheriff's Department
204 Front Street
Minot, North Dakota 58701
Office Phone: 701-857-6500
Email: Jason.kraft@wardnd.com

PRESIDENTIAL ACTIONS

GUARANTEEING THE STATES PROTECTION AGAINST INVASION

January 20, 2025

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby proclaim:

An essential feature of any sovereign nation is the existence of territorial boundaries and the inherent authority to decide who and what may cross those boundaries. The Supreme Court of the United States has described this power a "fundamental act of sovereignty," which "stems not alone from legislative power but is inherent in the executive power to control the foreign affairs of the

nation." *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950). The Supreme Court has recognized the inherent right and duty of the Executive Branch to defend our national sovereignty, stating that "[w]hen Congress prescribes a procedure concerning the admissibility of aliens, it is not dealing alone with a legislative power. It is implementing an inherent executive power." *Id.*

The Congress has, in establishing "an uniform Rule of Naturalization," created a complex and comprehensive Federal scheme in the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, to control the entry and exit of people and goods across the borders of the United States. In routine circumstances, this complex and comprehensive scheme can protect the national sovereignty of the United States by facilitating the admission of individuals whose presence serves the national interest and preventing the admission of those who do not, such as those aliens who pose threats to public health, section 212(a)(1) of the INA, 8 U.S.C. 1182(a)(1); safety, section 212(a)(2) (8 U.S.C. 1182(a)(2)); and national security, section 212(a)(3) (8 U.S.C. 1182(a)(3)). Prospective immigrants who use the visa system are screened for such health, safety, and security concerns while outside of the United States, and are not permitted to enter the United States until they establish that they are eligible to be admitted as a matter of law and should be admitted as a matter of discretion.

But screening under those provisions of the INA can be wholly ineffective in the border environment, where access to necessary information is limited for aliens who have traveled from countries around the world to enter the United States illegally, or when the system is overwhelmed, leading to the unauthorized entry of innumerable illegal aliens into the United States.

Due to significant information gaps — particularly in the border environment — and processing times, Federal officials do not have the ability to verify with certainty the criminal record or national-security risks associated with the illegal entry of every alien at the southern border, as required by section 212(a)(2)-(3) of the INA, 8 U.S.C. 1182(a)(2)-(3). Nor do aliens who illegally cross the

southern border readily provide comprehensive background information from their home countries to Federal law enforcement officials.

The public safety and national security risks in such an environment are heightened by the presence of, and control of territory by, international cartels and other transnational criminal organizations on the other side of the southern border, as well as terrorists and other malign actors who intend to harm the United States and the American people. And the risks associated with these issues are greatly exacerbated when the number of aliens illegally crossing the southern border increases to levels that prevent actual operational control of the border.

The same is true for public health, where the Federal Government currently lacks an effective operational capability to screen all illegal aliens crossing the southern border for communicable diseases of public-health concern, as required by section 212(a)(1) of the INA, 8 U.S.C. 1182(a)(1). Effectively no aliens who illegally enter the United States provide Federal officials at the southern border with their comprehensive health information, as a lawful immigrant would. As a result, innumerable aliens potentially carrying communicable diseases of public health significance illegally cross the southern border and enter communities across the United States.

Over the last 4 years, at least 8 million illegal aliens were encountered along the southern border of the United States, and countless millions more evaded detection and illegally entered the United States. The sheer number of aliens entering the United States has overwhelmed the system and rendered many of the INA's provisions ineffective, including those previously described that are intended to prevent aliens posing threats to public health, safety, and national security from entering the United States. As a result, millions of aliens who potentially pose significant threats to health, safety, and national security have moved into communities nationwide.

This ongoing influx of illegal aliens across the southern border of the United States has placed significant costs and constraints upon the States, which have

collectively spent billions of dollars in providing medical care and related human services, and have spent considerable amounts on increased law enforcement costs associated with the presence of these illegal aliens within their boundaries.

In joining the Union, the States agreed to surrender much of their sovereignty and join the Union in exchange for the Federal Government's promise in Article IV, Section 4 of the U.S. Constitution, to "protect each of [the States] against Invasion." I have determined that the current state of the southern border reveals that the Federal Government has failed in fulfilling this obligation to the States and hereby declare that an invasion is ongoing at the southern border, which requires the Federal Government to take measures to fulfill its obligation to the States.

The INA provides the President with certain emergency tools. For example, it states that "[w]henever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate." 8 U.S.C. 1182(f). This statute "exudes deference to the President in every clause." *Trump v. Hawaii*, 585 U.S. 667, 684 (2018). Further, the INA renders it unlawful for "any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe." 8 U.S.C. 1185(a)(1).

Historically, Presidents have used these statutory authorities to deny entry of designated classes and categories of aliens into the United States through ports of entry. But if the President has the power to deny entry of any alien into the United States, and to impose any restrictions as he may deem appropriate, this authority necessarily includes the right to deny the physical entry of aliens into the United States and impose restrictions on access to portions of the

immigration system, particularly when the number of aliens illegally crossing the southern border prevents the Federal Government from obtaining operational control of the border.

The INA does not, however, occupy the Federal Government's field of authority to protect the sovereignty of the United States, particularly in times of emergency when entire provisions of the INA are rendered ineffective by operational constraints, such as when there is an ongoing invasion into the States. The President's inherent powers to control the borders of the United States, including those deriving from his authority to control the foreign affairs of the United States, necessarily include the ability to prevent the physical entry of aliens involved in an invasion into the United States, and to rapidly repatriate them to an alternative location. Only through such measures can the President guarantee the right of each State to be protected against invasion.

By the power vested in me by the Constitution and the laws of the United States, I have determined that the current situation at the southern border qualifies as an invasion under Article IV, Section 4 of the Constitution of the United States. Accordingly, I am issuing this Proclamation based on my express and inherent powers in Article II of the Constitution of the United States, and in faithful execution of the immigration laws passed by the Congress, and suspending the physical entry of aliens involved in an invasion into the United States across the southern border until I determine that the invasion has concluded.

NOW, THEREFORE, I, Donald J. Trump, President of the United States of

United States of America, including sections 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby direct as follows:

Section 1. Suspension of Entry. I hereby proclaim, pursuant to sections 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), that the entry into the United States on or after the date of this order of aliens engaged in the invasion across

the southern border is detrimental to the interests of the United States. I therefore direct that entry into the United States of such aliens be suspended until I issue a finding that the invasion at the southern border has ceased.

Sec. 2. Imposition of Restrictions on Entry for Aliens Invading the United States. I hereby proclaim, pursuant to sections 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), that aliens engaged in the invasion across the southern border of the United States on or after the date of this proclamation are restricted from invoking provisions of the INA that would permit their continued presence in the United States, including, but not limited to, section 208 of the INA, 8 U.S.C. 1158, until I issue a finding that the invasion at the southern border has ceased.

Sec. 3. Suspension of and Restriction on Entry for Aliens Posing Public Health, Safety, or National Security Risks. I hereby proclaim, pursuant to sections 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), that the entry into the United States, on or after the date of this order, of any alien who fails, before entering the United States, to provide Federal officials with sufficient medical information and reliable criminal history and background information as to enable fulfillment of the requirements of sections 212(a)(1)-(3) of the INA, 8 U.S.C. 1182(a)(1)-(3), is detrimental to the interests of the United States. I therefore direct that entry into the United States of such aliens be suspended and restrict their access to provisions of the INA that would permit their continued presence in the United States, including, but not limited to, section 208 of the INA, 8 U.S.C. 1158.

Sec. 4. Constitutional Suspension of Physical Entry. Under the authorities provided to me under Article II of the Constitution of the United States, including my control over foreign affairs, and to effectuate the guarantee of protection against invasion required by Article IV, Section 4, I hereby suspend the physical entry of any alien engaged in the invasion across the southern border of the United States, and direct the Secretary of Homeland Security, in coordination with the Secretary of State and the Attorney General, to take

appropriate actions as may be necessary to achieve the objectives of this proclamation, until I issue a finding that the invasion at the southern border has ceased.

Sec. 5. Operational Actions to Repel the Invasion. The Secretary of Homeland Security, in coordination with the Secretary of State and the Attorney General, shall take all appropriate action to repel, repatriate, or remove any alien engaged in the invasion across the southern border of the United States on or after the date of this order, whether as an exercise of the suspension power in section 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), or as an exercise of my delegated authority under the Constitution of the United States, until I issue a finding that the invasion at the southern border has ceased.

Sec. 6. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, in the year of our Lord two thousand twenty-five, and of the Independence of the United States of America the two hundred and forty-ninth.

GRAND FORKS COUNTY SHERIFF'S OFFICE

122 S 5TH ST, SUITE 210
GRAND FORKS, NORTH DAKOTA 58201-4632
SHERIFFS.OFFICE@GFCOUNTY.ORG
PHONE: 701-780-8280 FAX: 701-780-8307

SHERIFF ANDY SCHNEIDER

To: House Judiciary Committee
From: Sheriff Andy Schneider
RE: HB 1585
Date: 1/31/2025

Chairman Klemin and Members of the House Judiciary,

My name is Andy Schneider, and I serve as the Sheriff of the Grand Forks County Sheriff's Office. I am writing in opposition of House Bill 1585.

As written, this bill provides gaps and uncertainty. The bill designates a requirement for any peace officer to notify ICE if they believe an immigrant is in the United States illegally. It does not designate if this is required only of on-duty peace officers. As written, it would imply that any peace officer, on or off duty while in the state of North Dakota shall report to ICE no matter what jurisdiction they are in.

In jurisdictions such as Grand Forks, we are fortunate to have ICE and Border Patrol assets in our community. With this bill, our deputies would be found guilty of an infraction for contacting the local agents and having them respond to the scene. By rendering an immediate action from federal partners and having them take illegal immigrants immediately into custody, we are now guilty of an infraction because we failed to call a tip line or submit a tip on a website.

In my experience, the peace officers in our state are aware of the duty to protect our communities, uphold the laws of the state of North Dakota and the Constitution of the United States, and keep North Dakota a safe place to live. I have not been made aware of any peace officers in our area not taking appropriate action when encountering illegal immigrants, therefore I see this bill as a solution looking for a problem that doesn't exist.

I would advise the committee move for a do-not-pass on House Bill 1585.

Thank you for your service to our State and to your communities.

Sincerely,
Andy Schneider
Andy Schneider
Sheriff – Grand Forks County

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1585
2/3/2025

A BILL for an Act to create and enact a new section to chapter 12-63 of the North Dakota Century Code, relating to a requirement for peace officers to report undocumented immigrants to United States immigration and customs.

3:15 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Discussion Topics:

- Current reporting of undocumented immigrants
- Penalties for officers that knowingly do not report illegal immigrants
- Current number of illegal immigrants in North Dakota

3:18 p.m. Representative Tveit moved a Do Not Pass.

3:18 p.m. Representative Schneider seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Steve Vetter	N
Representative Nels Christianson	N
Representative Donna Henderson	N
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	N
Representative SuAnn Olson	N
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	N
Representative Christina Wolff	N

3:23 p.m. Motion failed 3-11-0

3:26 p.m. Representative Vetter moved to Amend and strike section 1 subsection 2, replace "reasonably believes" with "has probable cause to believe" on line 10, and replace line 12 with "or United States customs and border protection".

3:26 p.m. Representative Henderson seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	Y
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	N
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

3:29 p.m. Motion passed 13-1-0

3:29 p.m. Representative Johnston moved a Do Pass as Amended.

3:29 p.m. Representative VanWinkle seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	Y
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	N
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Bill Tveit	N
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

3:31 p.m. Motion passed 11-3-0

3:31 p.m. Representative VanWinkle will carry the bill.

3:32 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

25.0127.01001
Title.02000

Adopted by the Judiciary Committee

February 3, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

2-3-25
#3 1 of 1

HOUSE BILL NO. 1585

Introduced by

Representatives Kasper, Koppelman, Louser, Monson, Morton, Motschenbacher

Senators Castaneda, Paulson, Powers

A BILL for an Act to create and enact a new section to chapter 12-63 of the North Dakota Century Code, relating to a requirement for peace officers to report undocumented immigrants to United States immigration and customs~~; and to provide a penalty~~.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12-63 of the North Dakota Century Code is created and enacted as follows:

Peace officer - Requirement - Report to United States immigration and customs enforcement - Penalty.

~~1.~~ If a peace officer employed by a criminal justice agency or a political subdivision ~~reasonably believes~~has probable cause to believe an immigrant is in the United States illegally, the officer shall report the immigrant to United States immigration and customs enforcement ~~using the tip line phone number or the tip form on the agency's website as soon as practicable~~or United States customs and border protection.

~~2. An individual who violates this section is guilty of an infraction, notwithstanding section 12-63-14.~~

REPORT OF STANDING COMMITTEE
HB 1585

Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS (25.0127.01001)** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1585 was placed on the Sixth order on the calendar.