
SENATE BILL No. 213

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-18; IC 9-24-18; IC 11-10; IC 22-4-14-9; IC 22-5-1.7; IC 34-28-7; IC 35-33-8-4; IC 35-43-5; IC 35-44; IC 36-2-13-7.5.

Synopsis: Unauthorized aliens. Requires the department of correction to: (1) evaluate the citizenship and immigration status of a committed offender; and (2) notify and assist the United States Department of Homeland Security under certain conditions. Provides that the fact that a defendant is a foreign national not lawfully admitted to the United States is a fact relevant to the risk of nonappearance a judicial officer must consider in setting bail. Requires a sheriff to make a reasonable effort to determine the citizenship or immigration status of certain persons confined in a county jail. Prohibits a governmental body from enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Allows a person to bring an action to compel a governmental body to comply with the prohibition. Requires the department of workforce development to verify through the Systematic Alien Verification for Entitlements (SAVE) program the lawful presence of certain individuals who apply for unemployment benefits. Requires a state agency or political subdivision to verify employees through the E-Verify program. Prohibits a state agency or political subdivision from entering into or renewing a public contract for services with a contractor unless the contract requires the contractor to verify employees through the E-Verify program. Provides that: (1) a state agency or political subdivision may terminate a public contract for services under certain conditions regarding the knowing employment or retention of unauthorized aliens; and (2) if a public contract for services is terminated, a contractor is liable for actual damages. Allows
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Effective: July 1, 2010.

Delph, Boots, Kruse

January 5, 2010, read first time and referred to Committee on Pensions and Labor.



a contractor of a public contract for services to terminate a contract with a subcontractor if the subcontractor employs or contracts with unauthorized aliens. Makes it, except in certain circumstances, a: (1) Class C infraction for a person to knowingly or intentionally offer in writing, accept, or record a consular identification for any public purpose; or (2) Class C infraction for a person to knowingly or intentionally offer in writing, accept, or record an individual taxpayer identification number as a valid form of identification for any public or private purpose. Increases penalties for certain crimes. Establishes additional penalties for certain crimes. Makes making a false identity statement a Class A misdemeanor. Makes making or distributing a forged instrument a Class C felony. Makes it a Class C felony for a person to knowingly or intentionally make, with the intent to distribute, a document that is not issued by a government entity and that purports to be a government issued identification. Makes it a: (1) Class A misdemeanor to knowingly or intentionally transport or move; and (2) Class A misdemeanor to knowingly or intentionally conceal, harbor, or shield from detection; an alien, for purposes of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 213

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2010]:

4 **Chapter 18. Citizenship and Immigration Status Information**

5 **Sec. 1. As used in this chapter, "governmental body" has the**
6 **meaning set forth in IC 5-22-2-13.**

7 **Sec. 2. A governmental body may not enact an ordinance, a**
8 **resolution, a rule, or a policy that prohibits or in any way restricts**
9 **another governmental body, including a law enforcement officer**
10 **(as defined in IC 5-2-1-2), a state or local official, or a state or local**
11 **government employee, from taking the following actions with**
12 **regard to information of the citizenship or immigration status,**
13 **lawful or unlawful, of an individual:**

- 14 (1) **Communicating or cooperating with federal officials.**
15 (2) **Sending to or receiving information from the United States**



Department of Homeland Security.

(3) Maintaining information.

(4) Exchanging information with another federal, state, or local government entity.

Sec. 3. If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.

SECTION 2. IC 9-24-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A person, except a person exempted under IC 9-24-1-7, who

(+) knowingly or intentionally operates a motor vehicle upon a highway and

(-) has never received a valid driving license

commits a Class C misdemeanor. **However, the offense is:**

(1) a Class A misdemeanor if the person has a prior unrelated conviction under this section;

(2) a Class D felony if the operation of the motor vehicle results in bodily injury or serious bodily injury; and

(3) a Class C felony if the operation of the motor vehicle results in the death of another person.

(b) In addition to any other penalty imposed for a conviction under this section, the court shall recommend that the person be prohibited from receiving a valid driving license for a fixed period of at least ninety (90) days and not more than two (2) years.

(c) The court shall specify:

(1) the length of the fixed period of the prohibition; and

(2) the date the fixed period of the prohibition begins;

whenever the court makes a recommendation under subsection (b).

(d) The bureau shall, upon receiving a record of conviction of a person upon a charge of operating a motor vehicle while never having received a valid driving license, prohibit the person from receiving a driving license for a fixed period of at least ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in subsection (c).

(e) In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that the defendant had been issued a driving license or permit that was valid at the time of the alleged offense.

SECTION 3. IC 9-24-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. A person who counterfeits or falsely reproduces a driving license with intent to use

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1 the license or to permit another person to use the license commits a
2 Class B misdemeanor. **However, the offense is a Class C felony if it**
3 **is done with the intent to misrepresent citizenship or immigration**
4 **status.**

5 SECTION 4. IC 11-10-1-2 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A committed
7 criminal offender shall, within a reasonable time, be evaluated
8 regarding:

- 9 (1) ~~his~~ **the offender's** medical, psychological, educational,
10 vocational, economic and social condition, and history;
- 11 (2) the circumstances surrounding ~~his~~ **the offender's** present
12 commitment;
- 13 (3) ~~his~~ **the offender's** history of criminality; ~~and~~
- 14 **(4) the citizenship or immigration status of the offender with**
15 **the United States Department of Homeland Security; and**
- 16 ~~(4)~~ **(5)** any additional relevant matters.

17 (b) In making the evaluation prescribed in subsection (a), the
18 department may utilize any presentence report, any presentence
19 memorandum filed by the offender, any reports of any presentence
20 physical or mental examination, the record of the sentencing hearing,
21 or other information forwarded by the sentencing court or other agency,
22 if that information meets the department's minimum standards for
23 criminal offender evaluation.

24 (c) If an offender has undergone, within two (2) years before the
25 date of ~~his~~ **the offender's** commitment, a previous departmental
26 evaluation under this section, the department may rely on the previous
27 evaluation and the information used at that time. However, this
28 subsection does not deprive an offender of the right to a medical and
29 dental examination under IC 11-10-3.

30 **(d) If the department is unable to verify the citizenship or**
31 **immigration status of a committed criminal offender, the**
32 **department shall notify the United States Department of Homeland**
33 **Security that the citizenship or immigration status of the offender**
34 **could not be verified. The department shall assist the United States**
35 **Department of Homeland Security with information leading to the**
36 **deportation of a committed criminal offender who is unlawfully**
37 **present in the United States.**

38 SECTION 5. IC 11-10-2-4 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A committed
40 offender shall, within a reasonable time, be evaluated regarding:

- 41 (1) ~~his~~ **the offender's** medical, psychological, educational,
42 vocational, economic and social condition, and history;

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- 1 (2) the circumstances surrounding ~~his~~ **the offender's** present
- 2 commitment;
- 3 (3) ~~his~~ **the offender's** history of delinquency; ~~and~~
- 4 **(4) the citizenship or immigration status of the offender with**
- 5 **the United States Department of Homeland Security; and**
- 6 ~~(4)~~ **(5)** any additional relevant matters.

7 (b) In making the evaluation prescribed in subsection (a), the
 8 department may utilize reports of any precommitment physical or
 9 mental examination or other information or records forwarded by the
 10 committing court or other agency, if that information meets the
 11 department's minimum standards for delinquent offender evaluation.

12 (c) If a committed offender has undergone, within one (1) year
 13 before the date of ~~his~~ **the offender's** commitment, a previous
 14 departmental evaluation under this section, the department may rely on
 15 the previous evaluation and the information used at that time. However,
 16 this subsection does not deprive an offender of the right to a medical
 17 and dental examination under IC 11-10-3.

18 **(d) If the department is unable to verify the citizenship or**
 19 **immigration status of a committed offender, the department shall**
 20 **notify the United States Department of Homeland Security that the**
 21 **citizenship or immigration status of the committed offender could**
 22 **not be verified. The department shall assist the United States**
 23 **Department of Homeland Security with information leading to the**
 24 **deportation of a committed offender who is unlawfully present in**
 25 **the United States.**

26 SECTION 6. IC 22-4-14-9 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. **(a) As used in this**
 28 **section, "SAVE program" refers to the Systematic Alien**
 29 **Verification for Entitlements program operated by the United**
 30 **States Department of Homeland Security or a successor program**
 31 **designated by the United States Department of Homeland Security.**

32 **(b)** For weeks of unemployment occurring subsequent to December
 33 31, 1977, benefits may not be paid on the basis of services performed
 34 by an alien unless the alien is an individual who has been lawfully
 35 admitted for permanent residence at the time the services are
 36 performed, is lawfully present for purposes of performing the services,
 37 or otherwise is permanently residing in the United States under color
 38 of law at the time the services are performed (including an alien who
 39 is lawfully present in the United States as a result of the application of
 40 the provisions of Section 207, Section 208, or Section 212(d)(5) of the
 41 Immigration and Nationality Act (8 U.S.C. 1157 through 1158).

- 42 (1) Any data or information required of individuals applying for

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1 benefits to determine whether benefits are not payable to them
 2 because of their alien status shall be uniformly required from all
 3 applicants for benefits.
 4 (2) In the case of an individual whose application for benefits
 5 would otherwise be approved, no determination that benefits to
 6 the individual are not payable because of ~~his~~ **the individual's**
 7 alien status may be made except upon a preponderance of the
 8 evidence.
 9 (3) Any modifications to the provisions of Section 3304(a)(14) of
 10 the Federal Unemployment Tax Act, as provided by P.L.94-566,
 11 which specify other conditions or other effective date than stated
 12 in this section for the denial of benefits based on services
 13 performed by aliens and which are required to be implemented
 14 under state law as a condition for full tax credit against the tax
 15 imposed by the Federal Unemployment Tax Act, shall be
 16 considered applicable under this section.

17 **(c) If an individual who applies for benefits is not a citizen or**
 18 **national of the United States, the department shall verify the lawful**
 19 **presence of the individual through the SAVE program to**
 20 **determine the individual's eligibility for benefits. The department**
 21 **shall implement this subsection in accordance with federal law.**

22 SECTION 7. IC 22-5-1.7 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2010]:

25 **Chapter 1.7. Public Contract for Services; Unauthorized Aliens**

26 **Sec. 1. As used in this chapter, "contractor" means a person**
 27 **that has or is attempting to enter into a public contract for services**
 28 **with a state agency or political subdivision.**

29 **Sec. 2. As used in this chapter, "E-Verify program" means the**
 30 **electronic verification of work authorization program of the Illegal**
 31 **Immigration Reform and Immigration Responsibility Act of 1996**
 32 **(P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated**
 33 **by the United States Department of Homeland Security or a**
 34 **successor work authorization program designated by the United**
 35 **States Department of Homeland Security or other federal agency**
 36 **authorized to verify the work authorization status of newly hired**
 37 **employees under the Immigration Reform and Control Act of 1986**
 38 **(P.L. 99-603).**

39 **Sec. 3. As used in this chapter, "person" means an individual, a**
 40 **corporation, a limited liability company, a partnership, or another**
 41 **legal entity.**

42 **Sec. 4. As used in this chapter, "political subdivision" has the**

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meaning set forth in IC 36-1-2-13.

Sec. 5. As used in this chapter, "public contract for services" means any type of agreement between a state agency or a political subdivision and a contractor for the procurement of services.

Sec. 6. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.

Sec. 7. As used in this chapter, "subcontractor" means a person that:

- (1) is a party to a contract with a contractor; and
- (2) provides services for work the contractor is performing under a public contract for services.

Sec. 8. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

Sec. 9. A state agency or political subdivision shall use the E-Verify program to verify the work eligibility status of all employees of the state agency or political subdivision hired after June 30, 2010.

Sec. 10. A state agency or political subdivision may not enter into or renew a public contract for services with a contractor unless the public contract contains a provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program.

Sec. 11. Before a state agency or political subdivision may enter into a public contract for services with a contractor, the contractor shall certify in a manner consistent with federal law that the contractor, at the time of the certification, does not employ or contract with an unauthorized alien.

Sec. 12. (a) A contractor or a subcontractor may not:

- (1) knowingly employ or contract with an unauthorized alien; or
- (2) retain an employee or contract with a person that the contractor or subcontractor subsequently learns is an unauthorized alien.

(b) If a contractor violates this section, the state agency or political subdivision shall require the contractor to remedy the violation not later than thirty (30) days after the date the state agency or political subdivision notifies the contractor of the violation.

(c) There is a rebuttable presumption that a contractor did not knowingly employ an unauthorized alien if the contractor verified the work eligibility status of the employee through the E-Verify

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1 program.

2 Sec. 13. (a) Except as provided in subsection (b), if the
3 contractor fails to remedy the violation within the thirty (30) day
4 period provided under section 12(b) of this chapter, the state
5 agency or political subdivision shall terminate the public contract
6 for services with the contractor for breach of the public contract
7 for services.

8 (b) If a contractor employs or contracts with an unauthorized
9 alien but the state agency or political subdivision (whichever the
10 contractor has a public contract for services with) determines that
11 terminating the public contract for services under subsection (a)
12 would be detrimental to the public interest or public property, the
13 state agency or political subdivision may allow the public contract
14 for services to remain in effect until the state agency or political
15 subdivision procures a new contractor.

16 (c) If a state agency or political subdivision terminates a public
17 contract for services under subsection (a), the contractor is liable
18 to the state agency or political subdivision for actual damages.

19 Sec. 14. A contractor may file an action with a circuit or
20 superior court having jurisdiction in the county to challenge:

21 (1) a notice of a violation to the contractor under section 12(b)
22 of this chapter not later than twenty (20) days after the
23 contractor receives the notice; or

24 (2) a termination of a public contract for services under
25 section 13(a) of this chapter not later than twenty (20) days
26 after the state agency or political subdivision terminates the
27 public contract for services with the contractor.

28 Sec. 15. If a contractor uses a subcontractor, the subcontractor
29 shall certify to the contractor in a manner consistent with federal
30 law that the subcontractor, at the time of certification, does not
31 employ or contract with an unauthorized alien.

32 Sec. 16. A contractor shall maintain on file a certification of a
33 subcontractor under section 15 of this chapter throughout the
34 duration of the term of a contract with the subcontractor.

35 Sec. 17. (a) If a contractor determines that a subcontractor is in
36 violation of this chapter, the contractor may terminate a contract
37 with the subcontractor for the violation.

38 (b) A contract terminated under subsection (a) for a violation of
39 this chapter by a subcontractor may not be considered a breach of
40 contract by the contractor or the subcontractor.

41 (c) A subcontractor may file an action with a circuit or superior
42 court having jurisdiction in the county to challenge a termination

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1 of a contract under subsection (a) not later than twenty (20) days
2 after the contractor terminates the contract with the
3 subcontractor.

4 SECTION 8. IC 34-28-7 IS ADDED TO THE INDIANA CODE AS
5 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2010]:

7 **Chapter 7. Offenses Related to Identification Numbers and**
8 **Documents**

9 **Sec. 1. As used in this chapter, "consular identification" means**
10 **an identification, other than a passport, issued by the government**
11 **of a foreign state for the purpose of providing consular services in**
12 **the United States to a national of the foreign state.**

13 **Sec. 2. As used in this chapter, "individual taxpayer**
14 **identification number" means a tax processing number issued by**
15 **the United States Internal Revenue Service for the purpose of**
16 **facilitating federal tax reporting by individuals who are not eligible**
17 **to obtain a federal Social Security number.**

18 **Sec. 3. (a) This section does not apply to a law enforcement**
19 **officer who is presented with a consular identification during the**
20 **investigation of a crime.**

21 **(b) Except as otherwise provided under federal law or to**
22 **document the foreign nationality of a cardholder, a person who**
23 **knowingly or intentionally offers in writing, accepts, or records a**
24 **consular identification for any public purpose commits a Class C**
25 **infraction. However, the person commits:**

- 26 **(1) a Class B infraction for a second offense; and**
- 27 **(2) a Class A infraction for a third or subsequent offense.**

28 **Sec. 4. Except as otherwise provided under law, a person who**
29 **knowingly or intentionally offers in writing, accepts, or records an**
30 **individual taxpayer identification number as a valid form of**
31 **identification for any public or private purpose, other than for**
32 **reporting, payment, or other processing of federal or state personal**
33 **taxation for which a Social Security number would otherwise be**
34 **required of a United States citizen, commits a Class C infraction.**
35 **However, the person commits:**

- 36 **(1) a Class B infraction for a second offense; and**
- 37 **(2) a Class A infraction for a third or subsequent offense.**

38 SECTION 9. IC 35-33-8-4 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The court shall
40 order the amount in which a person charged by an indictment or
41 information is to be held to bail, and the clerk shall enter the order on
42 the order book and indorse the amount on each warrant when issued.

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1 If no order fixing the amount of bail has been made, the sheriff shall
2 present the warrant to the judge of an appropriate court of criminal
3 jurisdiction, and the judge shall indorse on the warrant the amount of
4 bail.

5 (b) Bail may not be set higher than that amount reasonably required
6 to assure the defendant's appearance in court or to assure the physical
7 safety of another person or the community if the court finds by clear
8 and convincing evidence that the defendant poses a risk to the physical
9 safety of another person or the community. In setting and accepting an
10 amount of bail, the judicial officer shall take into account all facts
11 relevant to the risk of nonappearance, including:

- 12 (1) the length and character of the defendant's residence in the
- 13 community;
- 14 (2) the defendant's employment status and history and ~~his~~ **the**
- 15 **defendant's** ability to give bail;
- 16 (3) the defendant's family ties and relationships;
- 17 (4) the defendant's character, reputation, habits, and mental
- 18 condition;
- 19 (5) the defendant's criminal or juvenile record, insofar as it
- 20 demonstrates instability and a disdain for the court's authority to
- 21 bring ~~him~~ **the defendant** to trial;
- 22 (6) the defendant's previous record in not responding to court
- 23 appearances when required or with respect to flight to avoid
- 24 criminal prosecution;
- 25 (7) the nature and gravity of the offense and the potential penalty
- 26 faced, insofar as these factors are relevant to the risk of
- 27 nonappearance;
- 28 (8) the source of funds or property to be used to post bail or to pay
- 29 a premium, insofar as it affects the risk of nonappearance; ~~and~~
- 30 **(9) that the defendant is a foreign national who has not been**
- 31 **lawfully admitted to the United States; and**
- 32 ~~(9)~~ **(10)** any other factors, including any evidence of instability
- 33 and a disdain for authority, which might indicate that the
- 34 defendant might not recognize and adhere to the authority of the
- 35 court to bring ~~him~~ **the defendant** to trial.

36 SECTION 10. IC 35-43-5-2, AS AMENDED BY P.L.106-2006,
37 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2010]: Sec. 2. (a) A person who knowingly or intentionally:

- 39 (1) makes or utters a written instrument in such a manner that it
- 40 purports to have been made:
- 41 (A) by another person;
- 42 (B) at another time;

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- 1 (C) with different provisions; or
 2 (D) by authority of one who did not give authority; or
 3 (2) possesses more than one (1) written instrument knowing that
 4 the written instruments were made in a manner that they purport
 5 to have been made:
 6 (A) by another person;
 7 (B) at another time;
 8 (C) with different provisions; or
 9 (D) by authority of one who did not give authority;
 10 commits counterfeiting, a Class D felony.
- 11 **(b) A person who knowingly or intentionally makes or**
 12 **distributes more than one (1) written instrument in such a manner**
 13 **that the written instrument purports to have been made:**
 14 **(1) by another person;**
 15 **(2) at another time;**
 16 **(3) with different provisions; or**
 17 **(4) by authority of one who did not give authority;**
 18 **commits making or distributing a forged instrument, a Class C**
 19 **felony.**
- 20 ~~(b)~~ **(c)** A person who, with intent to defraud, makes, utters, or
 21 possesses a written instrument in such a manner that it purports to have
 22 been made:
 23 (1) by another person;
 24 (2) at another time;
 25 (3) with different provisions; or
 26 (4) by authority of one who did not give authority;
 27 commits forgery, a Class C felony.
- 28 ~~(c)~~ **(d)** This subsection applies to a person who applies for a driver's
 29 license (as defined in IC 9-13-2-48). A person who:
 30 (1) knowingly or intentionally uses a false or fictitious name or
 31 gives a false or fictitious address in an application for a driver's
 32 license or for a renewal or a duplicate of a driver's license; or
 33 (2) knowingly or intentionally makes a false statement or conceals
 34 a material fact or otherwise commits fraud in an application for a
 35 driver's license;
 36 commits application fraud, a Class D felony.
- 37 ~~(d)~~ **(e)** This subsection applies to a person who applies for a state
 38 identification card (as issued under IC 9-24-16). A person who:
 39 (1) knowingly or intentionally uses false information in an
 40 application for an identification card or for a renewal or duplicate
 41 of an identification card; or
 42 (2) knowingly or intentionally makes a false statement or

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1 otherwise commits fraud in an application for an identification
2 card;
3 commits application fraud, a Class D felony.

4 SECTION 11. IC 35-43-5-2.5, AS ADDED BY P.L.109-2006,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2010]: Sec. 2.5. (a) A person who knowingly or intentionally
7 possesses ~~produces~~, or distributes a document not issued by a
8 government entity that purports to be a government issued
9 identification commits a Class A misdemeanor.

10 (b) **A person who knowingly or intentionally makes a document
11 that is not issued by a government entity and that purports to be a
12 government issued identification commits a Class D felony.**

13 (c) **A person who knowingly or intentionally makes, with the
14 intent to distribute, a document that is not issued by a government
15 entity and that purports to be a government issued identification
16 commits a Class C felony.**

17 SECTION 12. IC 35-43-5-3.6 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.6. A person who
19 knowingly or intentionally obtains, possesses, transfers, or uses the
20 identifying information of another person **or uses false or fictitious
21 identifying information** with intent to:

- 22 (1) commit terrorism; or
- 23 (2) obtain or transport a weapon of mass destruction;
- 24 commits terroristic deception, a ~~Class C~~ **Class B** felony.

25 SECTION 13. IC 35-44-2-6 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2010]: Sec. 6. (a) **A person who, in a five (5) year period, has
28 knowingly made two (2) or more material statements concerning
29 the person's identity in one (1) or more official proceedings or
30 investigations, with the intent to mislead public servants, which are
31 inconsistent to the degree that one (1) of them is necessarily false,
32 commits false identity statement, a Class A misdemeanor.**

33 (b) **It is a defense to a prosecution under this section that both
34 material statements concerning the person's identity are accurate
35 or were accurate in the past.**

- 36 (c) **In a prosecution under subsection (a):**
 - 37 (1) **the indictment or information need not specify which**
 - 38 **statement is actually false; and**
 - 39 (2) **the falsity of a statement may be established sufficient for**
 - 40 **conviction by proof that the defendant made irreconcilably**
 - 41 **contradictory statements concerning the person's identity.**

42 SECTION 14. IC 35-44-5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]:

3 **Chapter 5. Offenses Relating to Illegal Aliens**

4 **Sec. 1. This chapter does not apply to the following:**

- 5 (1) **A church or religious organization.**
- 6 (2) **The provision of assistance for health care items and**
7 **services that are necessary for the treatment of an emergency**
8 **medical condition of an individual.**
- 9 (3) **A health care provider (as defined in IC 16-18-2-163(a))**
10 **that is providing health care services.**
- 11 (4) **An attorney or other person that is providing legal**
12 **services.**
- 13 (5) **A person who:**
 - 14 (A) **is a spouse of an alien or who stands in relation of**
15 **parent or child to an alien; and**
 - 16 (B) **would otherwise commit an offense under this chapter**
17 **with respect to the alien.**

18 **Sec. 2. As used in this chapter, "alien" has the meaning set forth**
19 **in 8 U.S.C. 1101(a).**

20 **Sec. 3. Except as provided in section 5 of this chapter, a person**
21 **who knowingly or intentionally:**

- 22 (1) **transports; or**
- 23 (2) **moves;**

24 **an alien, for the purpose of commercial advantage or private**
25 **financial gain, knowing or in reckless disregard of the fact that the**
26 **alien has come to, entered, or remained in the United States in**
27 **violation of the law commits transporting an illegal alien, a Class**
28 **A misdemeanor.**

29 **Sec. 4. Except as provided in section 5 of this chapter, a person**
30 **who knowingly or intentionally:**

- 31 (1) **conceals;**
- 32 (2) **harbors; or**
- 33 (3) **shields from detection;**

34 **an alien in any place, including a building or means of**
35 **transportation, for the purpose of commercial advantage or**
36 **private financial gain, knowing or in reckless disregard of the fact**
37 **that the alien has come to, entered, or remained in the United**
38 **States in violation of law, commits harboring an illegal alien, a**
39 **Class A misdemeanor.**

40 **Sec. 5. (a) Except as provided under subsection (b), an offense**
41 **under section 3 or 4 of this chapter is a Class D felony if the:**

- 42 (1) **person has a prior unrelated conviction under section 3 or**

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4 of this chapter; or
(2) offense involved more than five (5) aliens.
(b) The offense is a Class C felony if the person has a prior unrelated conviction under this section.

Sec. 6. It is a defense to a prosecution under section 4(2) of this chapter that a landlord, before renting real property to a person, was provided with a driver's license from any state or other lawful United States identification, including a Social Security card, passport, or other unexpired document issued by the federal government that evidences that the person is authorized to be in the United States.

Sec. 7. A determination by the United States Department of Homeland Security that an alien has come to, entered, or remained in the United States in violation of law is evidence that the alien is in the United States in violation of law.

SECTION 15. IC 36-2-13-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) The sheriff shall make a reasonable effort to determine the citizenship or immigration status with the United States Department of Homeland Security of a person who is:

- (1) charged with a felony or with operating a vehicle while intoxicated; and
- (2) confined, for any period, in a county jail.

(b) If the sheriff is unable to verify the citizenship or immigration status of a person described under subsection (a), the sheriff shall notify the United States Department of Homeland Security that the citizenship or immigration status of the person described in subsection (a) could not be verified. The sheriff shall assist the United States Department of Homeland Security with information leading to the deportation of a person described in subsection (a) who is unlawfully present in the United States.

(c) Upon request from the department of correction, the sheriff shall make available a copy of any information or documents the sheriff collects in attempting to determine the citizenship or immigration status of a person under this section to the department of correction.

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