

# HOUSE BILL NO. 5778

June 04, 2024, Introduced by Reps. Friske, Carra, DeBoyer, Rigas, Schriver, DeSana, Fox, Smit, Alexander, Beson, Tisdell, Roth, Wozniak, Aragona, Hoadley and Kunse and referred to the Committee on Government Operations.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding sections 410d, 410e, and 410f.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 410d. (1) An individual who is an alien and who enters or  
2 attempts to enter this state directly from a foreign nation at any  
3 location other than a lawful port of entry is guilty of a crime as  
4 provided in this section.

5           (2) Except as provided in subsection (3), an individual who  
6 violates this section is guilty of a misdemeanor punishable by  
7 imprisonment for not more than 6 months.

1 (3) An individual who commits a second or subsequent violation  
2 of this section is guilty of a felony punishable by imprisonment  
3 for not more than 20 years, but not less than 2 years.

4 (4) If 1 or more of the following circumstances apply to the  
5 defendant, the defendant has an affirmative defense to prosecution  
6 under this section:

7 (a) The federal government has granted 1 of the following to  
8 the defendant:

9 (i) Lawful presence in the United States.

10 (ii) Asylum under 8 USC 1158.

11 (b) The defendant's conduct does not constitute a violation of  
12 8 USC 1325(a).

13 (c) The defendant was approved for benefits under the federal  
14 Deferred Action for Childhood Arrivals program between June 15,  
15 2012 and July 16, 2021.

16 (5) The following federal programs do not provide an  
17 affirmative defense under subsection (4):

18 (a) The Deferred Action for Parents of Americans and Lawful  
19 Permanent Residents program.

20 (b) Any program not enacted by the United States Congress that  
21 is a successor to or materially similar to the program described by  
22 subsection (4)(c) or subdivision (a).

23 (6) As used in this section:

24 (a) "Alien" means that term as defined in 8 USC 1101(a)(3).

25 (b) "Port of entry" means a port of entry in the United  
26 States as designated by 19 CFR part 101.

27 Sec. 410e. (1) An individual who is an alien and who enters,  
28 attempts to enter, or is at any time found in this state after 1 of  
29 the following has occurred with respect to the individual is guilty

1 of a crime as provided in this section:

2 (a) The individual has been denied admission to or has been  
3 excluded, deported, or removed from the United States.

4 (b) The individual has departed from the United States while  
5 an order of exclusion, deportation, or removal is outstanding.

6 (2) Except as provided in subsections (3) and (4), a violation  
7 of this section is a misdemeanor punishable by imprisonment for not  
8 more than 6 months.

9 (3) A violation of this section is a felony punishable by  
10 imprisonment for not more than 20 years, but not less than 2 years,  
11 if 1 or more of the following apply:

12 (a) The defendant's removal was subsequent to a  
13 conviction for commission of 2 or more misdemeanors involving a  
14 controlled substance or a crime against an individual, or any  
15 combination of both.

16 (b) The defendant was excluded pursuant to 8 USC 1225(c)  
17 because the defendant was excludable under 8 USC 1182(a)(3)(B).

18 (c) The defendant was removed pursuant to the provisions of  
19 subchapter V of 8 USC Chapter 12.

20 (d) The defendant was removed pursuant to 8 USC 1231(a)(4)(B).

21 (4) A violation of this section is a felony punishable by  
22 imprisonment for not more than 20 years, but not less than 2 years,  
23 if the defendant was removed subsequent to a conviction for the  
24 commission of a felony.

25 (5) For purposes of this section, "removal" includes an  
26 order issued by a court of this state or any other agreement in  
27 which an alien stipulates to removal pursuant to a criminal  
28 proceeding under either federal or state law.

29 (6) As used in this section, "alien" means that term as

1 defined in 8 USC 1101(a)(3).

2           Sec. 410f. (1) An individual who is an alien to whom all of  
3 the following circumstances apply is guilty of a felony punishable  
4 by imprisonment for not longer than 20 years, but not less than 2  
5 years:

6           (a) The individual has been charged with or convicted of an  
7 offense under section 410d.

8           (b) A court of this state has issued an order requiring the  
9 individual to return to the foreign nation from which the  
10 individual entered or attempted to enter.

11           (c) The individual refuses to comply with the order.

12           (2) As used in this section, "alien" means that term as  
13 defined in 8 USC 1101(a)(3).