

05/16/2011 10:12:18 AM

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB1446**

By: Faught of the House and Justice of the Senate

Title: Immigration; relating to unlawful transport of an alien; making the smuggling of human beings unlawful; providing penalties; codification; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendment No. 1; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**HOUSE CONFEREES**

Jordan Fred Jordan

Martin (Steve) Steve Martin

McCullough \_\_\_\_\_

Moore J. H. Moore

Morrisette \_\_\_\_\_

Roan \_\_\_\_\_

Roberts (Dustin) Dustin Roberts

Schwartz Colby Schwartz

Sherrer \_\_\_\_\_

Sullivan Alan Sullivan

Tibbs Gene Tibbs

Wesselhoft \_\_\_\_\_

Williams \_\_\_\_\_

Mr. Speaker Chris Steele

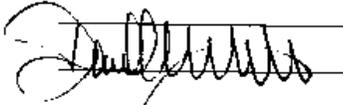
HB1446 CCR A

**SENATE CONFEREES**

Justice



Sykes



Newberry

Brinkley

Allen



Fields



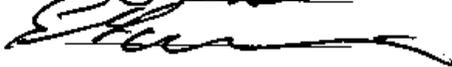
Ballenger



Ellis



Garrison



House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

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**AUTHOR(s)/COAUTHOR(s) CURRENTLY IN QUEUE for HB1446**

**As of 5/16/2011 10:18:28 AM**

**HOUSE AUTHORS**

**Remove as CoAuthor:**

Christian

**SENATE AUTHORS**

**Remove as Senate CoAuthor:**

Shortey

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 1446

By: Faught, Osborn, Cockroft,  
Christian and Key of the  
House

7 and

8 Justice of the Senate  
9

10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to immigration; amending Section 3,  
12 Chapter 112, O.S.L. 2007, as amended by Section 2,  
13 Chapter 409, O.S.L. 2010 (21 O.S. Supp. 2010, Section  
14 446), which relates to unlawful transport of an  
15 alien; providing guidelines for enforcement of  
16 prohibited act; making the smuggling of human beings  
17 unlawful; providing penalties; defining terms; making  
18 certain acts unlawful; providing penalties; defining  
19 term; amending 21 O.S. 2001, Section 1738, as last  
20 amended by Section 1 of Enrolled House Bill No. 1604  
21 of the 1st Session of the 53rd Legislature, which  
22 relates to seizure and forfeiture proceedings;  
23 authorizing seizure and forfeiture of property under  
24 certain circumstances; authorizing state and local  
law enforcement agencies to consider endorsing  
certain certifications under certain circumstances;  
providing eligibility requirements and guidelines for  
persons seeking certification; authorizing law  
enforcement to submit written notification to certain  
agency when cooperation is unreasonably refused;  
defining term; amending Section 5, Chapter 112,  
O.S.L. 2007 (22 O.S. Supp. 2010, Section 171.2),  
which relates to the determination of citizenship  
status of arrested persons; directing jail  
authorities to determine citizenship status of  
persons confined for misdemeanor offenses; amending

1 63 O.S. 2001, Section 2-106, as last amended by  
2 Section 2, Chapter 160, O.S.L. 2010 (63 O.S. Supp.  
3 2010, Section 2-106), which relates to powers and  
4 duties of the director of the Oklahoma State Bureau  
5 of Narcotics and Dangerous Drugs Control; expanding  
6 scope of duties to include the investigation of human  
7 trafficking and human smuggling; authorizing the  
8 Council on Law Enforcement Education and Training to  
9 establish and provide law enforcement training and  
10 education relating to illegal immigration; providing  
11 for the promulgation of rules; providing for  
12 codification; and providing an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY Section 3, Chapter 112, O.S.L.  
12 2007, as amended by Section 2, Chapter 409, O.S.L. 2010 (21 O.S.  
13 Supp. 2010, Section 446), is amended to read as follows:

14 Section 446. A. It shall be unlawful for any person to  
15 transport, move, or attempt to transport in the State of Oklahoma  
16 any alien knowing or in reckless disregard of the fact that the  
17 alien has come to, entered, or remained in the United States in  
18 violation of law, in furtherance of the illegal presence of the  
19 alien in the United States.

20 B. It shall be unlawful for any person to conceal, harbor, or  
21 shelter from detection any alien in any place within the State of  
22 Oklahoma, including any building or means of transportation, knowing  
23 or in reckless disregard of the fact that the alien has come to,  
24 entered, or remained in the United States in violation of law.

1 C. It shall be unlawful for any person to intentionally  
2 destroy, hide, alter, abscond with or keep documentation, including  
3 birth certificates, visas, passports, green cards or other documents  
4 utilized in the regular course of business to either verify or  
5 legally extend an individual's legal status within the United States  
6 for the purpose of trafficking a person in violation of Section 748  
7 of this title.

8 D. Nothing in this section shall be construed so as to prohibit  
9 or restrict the provision of any state or local public benefit  
10 described in ~~8 U.S.C.~~ Section 1621(b) of Title 8 of the United  
11 States Code, or regulated public health services provided by a  
12 private charity using private funds.

13 E. Any person violating the provisions of subsections A, B or C  
14 of this section shall, upon conviction, be guilty of a felony  
15 punishable by imprisonment in the custody of the Department of  
16 Corrections for not less than one (1) year, or by a fine of not less  
17 than One Thousand Dollars (\$1,000.00), or by both such fine and  
18 imprisonment.

19 F. A law enforcement official or agency of this state or a  
20 county, city, town or other political subdivision of this state may  
21 not consider race, color or national origin in the enforcement of  
22 this section except to the extent permitted by the United States  
23 Constitution or Oklahoma Constitution.

24

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 447 of Title 21, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. It shall be unlawful for a person to intentionally engage in  
5 the smuggling of human beings for profit or commercial purpose.

6 B. Any person violating the provisions of this section shall,  
7 upon conviction, be guilty of a felony punishable by imprisonment in  
8 the custody of the Department of Corrections for not less than five  
9 (5) years, or by a fine of not more than Ten Thousand Dollars  
10 (\$10,000.00), or by both such fine and imprisonment. Any person  
11 violating the provisions of this section where the person being  
12 transported is under eighteen (18) years of age at the time of the  
13 offense shall, upon conviction, be guilty of a felony punishable by  
14 imprisonment in the custody of the Department of Corrections for not  
15 less than ten (10) years, or by a fine of not more than Twenty  
16 Thousand Dollars (\$20,000.00), or by both such fine and  
17 imprisonment.

18 C. For the purposes of this section:

19 1. "Smuggling of human beings" means the transportation,  
20 procurement of transportation or use of property or real property by  
21 a person or an entity that knows or has reason to know that the  
22 person or persons transported or to be transported are not United  
23 States citizens, permanent resident aliens or persons otherwise  
24

1 lawfully in this state or have attempted to enter, entered or  
2 remained in the United States in violation of law; and

3 2. "Procurement of transportation" means any participation in  
4 or facilitation of transportation and includes:

5 a. providing services that facilitate transportation  
6 including travel arrangement services or money  
7 transmission services, or

8 b. providing property that facilitates transportation,  
9 including a weapon, a vehicle or other means of  
10 transportation or false identification, or selling,  
11 leasing, renting or otherwise making available  
12 property or real property.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1525 of Title 21, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. It shall be unlawful for any person who provides immigration  
17 assistance for a fee or other compensation to knowingly make,  
18 exhibit or present any false, fraudulent, incomplete or misleading  
19 statement, representation, or writing to any person seeking  
20 immigration assistance with the intent to defraud or deceive the  
21 person.

22 B. Any person who violates the provisions of this section  
23 shall, upon conviction, be guilty of a misdemeanor punishable by  
24 imprisonment in the county jail for a term of not more than six (6)

1 months, or by a fine of One Thousand Dollars (\$1,000.00), or by both  
2 such fine and imprisonment. Any person convicted of a second or  
3 subsequent violation of this section shall be guilty of a  
4 misdemeanor punishable by imprisonment in the county jail for a term  
5 of not more than one (1) year, or by a fine of Two Thousand Five  
6 Hundred Dollars (\$2,500.00), or by both such fine and imprisonment.

7 C. As used in this section, "immigration assistance" means the  
8 person uses knowledge of, or experience in, immigration procedures  
9 to:

10 1. Assist a person in the immigration process or in the  
11 preparation of a visa application;

12 2. Advise a person about the immigration process or the visa  
13 application;

14 3. Assist a person in the preparation of any document in  
15 connection with a visa application or the immigration process; or

16 4. Represent a person at any immigration proceeding before a  
17 court or review authority.

18 SECTION 4. AMENDATORY 21 O.S. 2001, Section 1738, as  
19 last amended by Section 1 of Enrolled House Bill No. 1604 of the 1st  
20 Session of the 53rd Oklahoma Legislature, is amended to read as  
21 follows:

22 Section 1738. A. 1. Any commissioned peace officer of this  
23 state is authorized to seize any equipment, vehicle, airplane,  
24 vessel or any other conveyance that is used in the commission of any

1 armed robbery offense defined in Section 801 of this title, used to  
2 facilitate the intentional discharge of any kind of firearm in  
3 violation of Section 652 of this title, used in violation of the  
4 Trademark Anti-Counterfeiting Act, used in the attempt or commission  
5 of any act of burglary in the first or second degree, motor vehicle  
6 theft, unauthorized use of a vehicle, obliteration of distinguishing  
7 numbers on vehicles or criminal possession of vehicles with altered,  
8 removed or obliterated numbers as defined by Sections 1431, 1435,  
9 1716, 1719 and 1720 of this title or Sections 4-104 and 4-107 of  
10 Title 47 of the Oklahoma Statutes, used in the commission of any  
11 arson offense defined in Section 1401, 1402, 1403, 1404 or 1405 of  
12 this title, used in any manner to facilitate or participate in the  
13 commission of any human trafficking offense in violation of Section  
14 748 of this title, or used by any defendant when such vehicle or  
15 other conveyance is used in any manner by a prostitute, pimp or  
16 panderer to facilitate or participate in the commission of any  
17 prostitution offense in violation of ~~Sections~~ Section 1028, 1029 or  
18 1030 of this title; provided, however, that the vehicle or  
19 conveyance of a customer or anyone merely procuring the services of  
20 a prostitute shall not be included.

21 2. No conveyance used by a person as a common carrier in the  
22 transaction of business as a common carrier shall be forfeited under  
23 the provisions of this section unless it shall appear that the owner  
24 or other person in charge of such conveyance was a consenting party

1 or privy to the unlawful use of the conveyance in violation of this  
2 section.

3 3. No conveyance shall be forfeited under the provisions of  
4 this section by reason of any act or omission established by the  
5 owner thereof to have been committed or omitted without the  
6 knowledge or consent of such owner, and if the act is committed by  
7 any person other than such owner, the owner shall establish further  
8 that the conveyance was unlawfully in the possession of a person  
9 other than the owner in violation of the criminal laws of the United  
10 States or of any state.

11 B. In addition to the property described in subsection A of  
12 this section, the following property is also subject to forfeiture  
13 pursuant to this section:

14 1. Property used in the commission of theft of livestock or in  
15 any manner to facilitate the theft of livestock;

16 2. The proceeds gained from the commission of theft of  
17 livestock;

18 3. Personal property acquired with proceeds gained from the  
19 commission of theft of livestock;

20 4. All conveyances, including aircraft, vehicles or vessels,  
21 and horses or dogs which are used to transport or in any manner to  
22 facilitate the transportation for the purpose of the commission of  
23 theft of livestock;

24

1           5. Any items having a counterfeit mark and all property that is  
2 owned by or registered to the defendant that is employed or used in  
3 connection with any violation of the Trademark Anti-Counterfeiting  
4 Act;

5           6. Any weapon possessed, used or available for use in any  
6 manner during the commission of a felony within the State of  
7 Oklahoma, or any firearm that is possessed by a convicted felon;

8           7. Any police scanner used in violation of Section 1214 of this  
9 title;

10          8. Any computer and its components and peripherals, including  
11 but not limited to the central processing unit, monitor, keyboard,  
12 printers, scanners, software, and hardware, when it is used in the  
13 commission of any crime in this state;

14          9. All property used in the commission of, or in any manner to  
15 facilitate, a violation of Section 1040.12a of this title;

16          10. All conveyances, including aircraft, vehicles or vessels,  
17 monies, coins and currency, or other instrumentality used or  
18 intended to be used, in any manner or part, to commit a violation of  
19 paragraph 1 of subsection A of Section 1021 of this title, where the  
20 victim of the crime is a minor child, subsection B of Section 1021  
21 of this title, Section 1021.2 of this title, paragraph 1 of  
22 subsection A of Section 1111 of this title, or paragraphs 2 and 3 of  
23 subsection A of Section 1123 of this title;

24

1 11. All conveyances, including aircraft, vehicles or vessels,  
2 monies, coins and currency, or other instrumentality used in any  
3 manner or part, to commit any violation of the provisions set forth  
4 in Section 748 of this title;

5 12. Any and all property used in any manner or part to  
6 facilitate, participate or further the commission of a human  
7 trafficking offense in violation of Section 748 of this title, and  
8 all property, including monies, real estate, or any other tangible  
9 assets or property of or derived from or used by a prostitute, pimp  
10 or panderer in any manner or part to facilitate, participate or  
11 further the commission of any prostitution offense in violation of  
12 Sections 1028, 1029 or 1030 of this title; provided, however, any  
13 monies, real estate or any other tangible asset or property of a  
14 customer or anyone merely procuring the services of a prostitute  
15 shall not be included; ~~and~~

16 13. Any vehicle, airplane, vessel, or parts of a vehicle whose  
17 numbers have been removed, altered or obliterated so as to prevent  
18 determination of the true identity or ownership of said property and  
19 parts of vehicles which probable cause indicates are stolen but  
20 whose true ownership cannot be determined; and

21 14. All conveyances, including aircraft, vehicles or vessels,  
22 used in any manner or part to commit any violation of the provisions  
23 set forth in Section 446 of this title or Section 2 of this act.  
24

1 C. Property described in subsection A or B of this section may  
2 be held as evidence until a forfeiture has been declared or a  
3 release ordered. Forfeiture actions under this section may be  
4 brought by the district attorney in the proper county of venue as  
5 petitioner; provided, in the event the district attorney elects not  
6 to file such action, or fails to file such action within ninety (90)  
7 days of the date of the seizure of such equipment, the property  
8 shall be returned to the owner.

9 D. Notice of seizure and intended forfeiture proceeding shall  
10 be filed in the office of the clerk of the district court for the  
11 county wherein such property is seized and shall be given all owners  
12 and parties in interest.

13 E. Notice shall be given according to one of the following  
14 methods:

15 1. Upon each owner or party in interest whose right, title, or  
16 interest is of record in the Oklahoma Tax Commission or with the  
17 county clerk for filings under the Uniform Commercial Code, served  
18 in the manner of service of process in civil cases prescribed by  
19 Section 2004 of Title 12 of the Oklahoma Statutes;

20 2. Upon each owner or party in interest whose name and address  
21 is known, served in the manner of service of process in civil cases  
22 prescribed by Section 2004 of Title 12 of the Oklahoma Statutes; or

23 3. Upon all other owners, whose addresses are unknown, but who  
24 are believed to have an interest in the property by one publication

1 in a newspaper of general circulation in the county where the  
2 seizure was made.

3 F. Within sixty (60) days after the mailing or publication of  
4 the notice, the owner of the property and any other party in  
5 interest or claimant may file a verified answer and claim to the  
6 property described in the notice of seizure and of the intended  
7 forfeiture proceeding.

8 G. If at the end of sixty (60) days after the notice has been  
9 mailed or published there is no verified answer on file, the court  
10 shall hear evidence upon the fact of the unlawful use and may order  
11 the property forfeited to the state, if such fact is proven.

12 H. If a verified answer is filed, the forfeiture proceeding  
13 shall be set for hearing.

14 I. At the hearing the petitioner shall prove by clear and  
15 convincing evidence that property was used in the attempt or  
16 commission of an act specified in subsection A of this section or is  
17 property described in subsection B of this section with knowledge by  
18 the owner of the property.

19 J. The claimant of any right, title, or interest in the  
20 property may prove the lien, mortgage, or conditional sales contract  
21 to be bona fide and that the right, title, or interest created by  
22 the document was created without any knowledge or reason to believe  
23 that the property was being, or was to be, used for the purpose  
24 charged.

1 K. In the event of such proof, the court may order the property  
2 released to the bona fide or innocent owner, lien holder, mortgagee,  
3 or vendor if the amount due such person is equal to, or in excess  
4 of, the value of the property as of the date of the seizure, it  
5 being the intention of this section to forfeit only the right,  
6 title, or interest of the purchaser, except for items bearing a  
7 counterfeit mark or used exclusively to manufacture a counterfeit  
8 mark.

9 L. If the amount due to such person is less than the value of  
10 the property, or if no bona fide claim is established, the property  
11 may be forfeited to the state and may be sold pursuant to judgment  
12 of the court, as on sale upon execution, and as provided in Section  
13 2-508 of Title 63 of the Oklahoma Statutes, except as otherwise  
14 provided for by law and for property bearing a counterfeit mark  
15 which shall be destroyed.

16 M. Property taken or detained pursuant to this section shall  
17 not be repleviable, but shall be deemed to be in the custody of the  
18 petitioner or in the custody of the law enforcement agency as  
19 provided in the Trademark Anti-Counterfeiting Act. Except for  
20 property required to be destroyed pursuant to the Trademark Anti-  
21 Counterfeiting Act, the petitioner shall release said property to  
22 the owner of the property if it is determined that the owner had no  
23 knowledge of the illegal use of the property or if there is  
24 insufficient evidence to sustain the burden of showing illegal use

1 of such property. If the owner of the property stipulates to the  
2 forfeiture and waives the hearing, the petitioner may determine if  
3 the value of the property is equal to or less than the outstanding  
4 lien. If such lien exceeds the value of the property, the property  
5 may be released to the lien holder. Property which has not been  
6 released by the petitioner shall be subject to the orders and  
7 decrees of the court or the official having jurisdiction thereof.

8 N. The petitioner, or the law enforcement agency holding  
9 property pursuant to the Trademark Anti-Counterfeiting Act, shall  
10 not be held civilly liable for having custody of the seized property  
11 or proceeding with a forfeiture action as provided for in this  
12 section.

13 O. Attorney fees shall not be assessed against the state or the  
14 petitioner for any actions or proceeding pursuant to Section 1701 et  
15 seq. of this title.

16 P. The proceeds of the sale of any property shall be  
17 distributed as follows, in the order indicated:

18 1. To the bona fide or innocent purchaser, conditional sales  
19 vendor, or mortgagee of the property, if any, up to the amount of  
20 such person's interest in the property, when the court declaring the  
21 forfeiture orders a distribution to such person;

22 2. To the payment of the actual reasonable expenses of  
23 preserving the property;

24

1           3. To the victim of the crime to compensate said victim for any  
2 loss incurred as a result of the act for which such property was  
3 forfeited; and

4           4. The balance to a revolving fund in the office of the county  
5 treasurer of the county wherein the property was seized, to be  
6 distributed as follows: one-third (1/3) to the investigating law  
7 enforcement agency; one-third (1/3) of said fund to be used and  
8 maintained as a revolving fund by the district attorney to be used  
9 to defray any lawful expenses of the office of the district  
10 attorney; and one-third (1/3) to go to the jail maintenance fund,  
11 with a yearly accounting to the board of county commissioners in  
12 whose county the fund is established. If the petitioner is not the  
13 district attorney, then the one-third (1/3) which would have been  
14 designated to that office shall be distributed to the petitioner.  
15 Monies distributed to the jail maintenance fund shall be used to pay  
16 costs for the storage of such property if such property is ordered  
17 released to a bona fide or innocent owner, lien holder, mortgagee,  
18 or vendor and if such funds are available in said fund.

19           Q. If the court finds that the property was not used in the  
20 attempt or commission of an act specified in subsection A of this  
21 section and was not property subject to forfeiture pursuant to  
22 subsection B of this section and is not property bearing a  
23 counterfeit mark, the court shall order the property released to the  
24

1 owner as the right, title, or interest appears on record in the Tax  
2 Commission as of the seizure.

3 R. No vehicle, airplane, or vessel used by a person as a common  
4 carrier in the transaction of business as a common carrier shall be  
5 forfeited pursuant to the provisions of this section unless it shall  
6 be proven that the owner or other person in charge of such  
7 conveyance was a consenting party or privy to the attempt or  
8 commission of an act specified in subsection A or B of this section.

9 No property shall be forfeited pursuant to the provisions of this  
10 section by reason of any act or omission established by the owner  
11 thereof to have been committed or omitted without the knowledge or  
12 consent of such owner, and by any person other than such owner while  
13 such property was unlawfully in the possession of a person other  
14 than the owner in violation of the criminal laws of the United  
15 States or of any state.

16 S. Whenever any property is forfeited pursuant to this section,  
17 the district court having jurisdiction of the proceeding may order  
18 that the forfeited property may be retained for its official use by  
19 the state, county, or municipal law enforcement agency which seized  
20 the property.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 142C of Title 21, unless there  
23 is created a duplication in numbering, reads as follows:

24

1           A. As authorized in the Immigration and Nationality Act,  
2 Section 101(a)(15)(T) and 101(a)(15)(U), state and local law  
3 enforcement agencies may consider endorsing T or U Nonimmigrant  
4 Status Certifications, on a case-by-case basis, to persons within  
5 the immigrant community who are crime victims of human trafficking  
6 or other qualifying criminal activity and who report such crimes and  
7 assist law enforcement in the detection, investigation and  
8 prosecution of such crimes. The endorsement of a T or U  
9 Nonimmigrant Status Certification by a law enforcement agency to  
10 those individuals who prove willing to assist law enforcement in the  
11 furtherance of detecting, investigating and prosecuting certain  
12 crimes is entirely discretionary. A victim who receives a T or U  
13 Nonimmigrant Status Certification has an ongoing responsibility to  
14 assist the state or local law enforcement agency in the  
15 investigation or prosecution of a crime or crimes involving human  
16 trafficking or a qualifying criminal activity.

17           B. To be eligible for T or U Nonimmigrant Status Certification,  
18 a person shall:

19           1. Have been a victim of a severe form of human trafficking or  
20 qualifying criminal activity;

21           2. Know details concerning the human trafficking or qualifying  
22 criminal activity;

23           3. Have been helpful, be helpful, or be likely to be helpful to  
24 the state or local law enforcement agency in the investigation or

1 prosecution of the crime of human trafficking or qualifying criminal  
2 activity upon which the application of the person is based; and

3 4. Have fully cooperated and not refused or failed to provide  
4 information or assistance reasonably requested by the law  
5 enforcement agency since the initiation of the criminal  
6 investigation.

7 The person seeking T or U Nonimmigrant Status Certification must  
8 possess credible and reliable information establishing that the  
9 person has knowledge of the details concerning the human trafficking  
10 or qualifying criminal activity of which the person is a victim.

11 The person must possess specific facts regarding the criminal  
12 activity leading a certifying law enforcement official to determine  
13 that the person has provided, is providing, or is likely to provide  
14 assistance in the investigation or prosecution of human trafficking  
15 or qualifying criminal activity.

16 C. A person who receives T or U Nonimmigrant Status  
17 Certification has an ongoing responsibility to assist the state or  
18 local law enforcement agency in the investigation or prosecution of  
19 human trafficking or qualifying criminal activity. If the person  
20 unreasonably refuses to assist in the investigation or prosecution  
21 of human trafficking or qualifying criminal activity, even after  
22 certification has been granted and the Form I-918 or Form I-914 has  
23 been submitted to the United States Citizenship and Immigration  
24 Service, the designated law enforcement official of the state or

1 local law enforcement agency shall notify the United States  
2 Citizenship and Immigration Service, in writing, of the refusal of  
3 the person to assist the law enforcement agency.

4 D. As used in this section, "qualifying criminal activity"  
5 includes one or more of the following or any similar activity in  
6 violation of federal, state, or local criminal law: rape; torture;  
7 trafficking; incest; domestic violence; sexual assault; abusive  
8 sexual contact; prostitution; sexual exploitation; female genital  
9 mutilation; being held hostage; peonage; involuntary servitude;  
10 slave trade; kidnapping; abduction; unlawful criminal restraint;  
11 false imprisonment; blackmail; extortion; manslaughter; murder;  
12 felonious assault; witness tampering; obstruction of justice;  
13 perjury; or attempt, conspiracy, or solicitation to commit any of  
14 the above mentioned crimes.

15 SECTION 6. AMENDATORY Section 5, Chapter 112, O.S.L.  
16 2007 (22 O.S. Supp. 2010, Section 171.2), is amended to read as  
17 follows:

18 Section 171.2 A. When a person charged with a misdemeanor or  
19 ~~felony or with driving under the influence pursuant to Section 11-~~  
20 ~~902 of Title 47 of the Oklahoma Statutes~~ offense is confined, for  
21 any period, in the jail of the county, any municipality or a jail  
22 operated by a regional jail authority, a reasonable effort shall be  
23 made to determine the citizenship status of the person so confined.

24

1           B. If the prisoner is a foreign national, the keeper of the  
2 jail or other officer shall make a reasonable effort to verify that  
3 the prisoner has been lawfully admitted to the United States and, if  
4 lawfully admitted, that such lawful status has not expired. If  
5 verification of lawful status cannot be made from documents in the  
6 possession of the prisoner, verification shall be made within forty-  
7 eight (48) hours through a query to the Law Enforcement Support  
8 Center of the United States Department of Homeland Security or other  
9 office or agency designated for that purpose by the United States  
10 Department of Homeland Security. If the lawful immigration status  
11 of the prisoner cannot be verified, the keeper of the jail or other  
12 officer shall notify the United States Department of Homeland  
13 Security.

14           C. For the purpose of determining the grant of or issuance of  
15 bond, it shall be a rebuttable presumption that a person whose  
16 citizenship status has been verified pursuant to subsection B of  
17 this section to be a foreign national who has not been lawfully  
18 admitted to the United States is at risk of flight.

19           SECTION 7.           AMENDATORY           63 O.S. 2001, Section 2-106, as  
20 last amended by Section 2, Chapter 160, O.S.L. 2010 (63 O.S. Supp.  
21 2010, Section 2-106), is amended to read as follows:

22           Section 2-106. A. The Director of the Oklahoma State Bureau of  
23 Narcotics and Dangerous Drugs Control shall, in addition to other  
24 powers and duties vested in the Director:

1           1. Cooperate with federal and other state agencies in  
2 discharging the responsibilities concerning traffic in narcotics and  
3 dangerous substances and in suppressing the abuse of dangerous  
4 substances;

5           2. Arrange for the exchange of information between governmental  
6 officials concerning the use and abuse of dangerous substances;

7           3. Coordinate and cooperate in training programs on dangerous  
8 substances law enforcement at the local and state levels;

9           4. Cooperate with the Oklahoma State Bureau of Narcotics and  
10 Dangerous Drugs Control by establishing a centralized unit which  
11 will accept, catalog, file and collect statistics, including records  
12 of drug-dependent persons and other dangerous substance law  
13 offenders within the state, and make such information available for  
14 federal, state and local law enforcement purposes; and may collect  
15 and furnish statistics for other appropriate purposes; and

16           5. Coordinate and cooperate in programs of eradication aimed at  
17 destroying wild or illicit growth of plant species from which  
18 controlled dangerous substances may be extracted.

19           B. Results, information and evidence received from the Oklahoma  
20 State Bureau of Narcotics and Dangerous Drugs Control relating to  
21 the regulatory functions of this act, including results of  
22 inspections conducted by that agency, may be relied upon and acted  
23 upon by the Director in conformance with the regulatory functions  
24 under this act.

1 C. The Director is further authorized and directed to:

2 1. Coordinate and cooperate in educational programs designed to  
3 prevent and deter misuse and abuse of controlled dangerous  
4 substances;

5 2. Promote better recognition of the problems of misuse and  
6 abuse of controlled dangerous substances within the regulated  
7 industry and among interested groups and organizations;

8 3. Assist the regulated industry, interested groups and  
9 organizations in contributing to the reduction of misuse and abuse  
10 of controlled dangerous substances;

11 4. Consult with interested groups and organizations to aid them  
12 in solving administrative and organizational problems;

13 5. Assist in evaluating procedures, projects, techniques and  
14 controls conducted or proposed as part of educational programs on  
15 misuse and abuse of controlled dangerous substances;

16 6. Disseminate the results of research on misuse and abuse of  
17 controlled dangerous substances to promote a better public  
18 understanding of what problems exist and what can be done to combat  
19 them;

20 7. Assist in the education and training of state and local law  
21 enforcement officials in their efforts to control misuse and abuse  
22 of controlled dangerous substances;

23 8. Conduct an annual seminar to be attended by selected law  
24 enforcement officers in order to teach new techniques and advances

1 in the investigation of violations of the Uniform Controlled  
2 Dangerous Substances Act; and

3 9. Supervise and direct agents appointed in the performance of  
4 their function of enforcement of the provisions of this act.

5 D. The Director is further authorized and directed to:

6 1. Encourage research on misuse and abuse of controlled  
7 dangerous substances;

8 2. Cooperate in establishing methods to assess accurately the  
9 effects of controlled dangerous substances and to identify and  
10 characterize controlled dangerous substances with potential for  
11 abuse;

12 3. Cooperate in making studies and in undertaking programs of  
13 research to:

14 a. develop new or improved approaches, techniques,  
15 systems, equipment and devices to strengthen the  
16 enforcement of this act,

17 b. determine patterns of misuse and abuse of controlled  
18 dangerous substances and the social effects thereof,  
19 and

20 c. improve methods for preventing, predicting,  
21 understanding and dealing with the misuse and abuse of  
22 controlled dangerous substances.

23 E. The Director shall prepare a yearly report on all deaths and  
24 nonfatal overdoses which were the result or probable result of abuse

1 of a controlled dangerous substance. The yearly report shall be  
2 limited to statistical information including, but not limited to,  
3 the county where the death or nonfatal overdose occurred, age, race,  
4 gender, type of controlled dangerous substances involved in the  
5 death or nonfatal overdose, and the method in which the controlled  
6 dangerous substance was obtained by the person, when available.

7 F. The Director may enter into contracts with public agencies,  
8 institutions of higher education and private organizations or  
9 individuals for the purpose of conducting research, demonstrations  
10 or special projects which bear directly on misuse and abuse of  
11 controlled dangerous substances.

12 G. The Director may enter into contracts for educational and  
13 research activities without performance bonds.

14 H. The Director may authorize persons engaged in research or  
15 scientific activities on the use and effects of dangerous substances  
16 to withhold the names and other identifying characteristics of  
17 persons who are the subjects of such research. Persons who obtain  
18 this authorization may not be compelled in any state civil,  
19 criminal, administrative, legislative or other proceeding to  
20 identify the subjects of research for which such authorization was  
21 obtained.

22 I. The Director may authorize the lawful possession,  
23 distribution and use of controlled dangerous substances by persons  
24 engaged in research or scientific activities; authorization for

1 possession of controlled dangerous substances may be extended to  
2 persons engaged in a program of drug education or persons in the  
3 performance of an official duty. Persons who obtain this  
4 authorization shall be exempt from state prosecution for possession,  
5 distribution or use of dangerous substances to the extent authorized  
6 by the Director.

7 J. The Director is authorized to accept gifts, bequests,  
8 devises, contributions and grants, public or private, including  
9 federal funds or funds from any other source for use in furthering  
10 the purpose of the office of the Director.

11 K. The Director is authorized to purchase or sell real  
12 property, together with appurtenances, in the name of the Oklahoma  
13 State Bureau of Narcotics and Dangerous Drugs Control upon approval  
14 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
15 Control Commission.

16 L. The Director is authorized to purchase and maintain motor  
17 vehicles and other equipment for use by the employees of the Bureau.

18 M. The Director shall be in charge of all monies appropriated  
19 for or deposited to the credit of the office of the Director and is  
20 authorized to approve claims and payrolls as provided in Section  
21 41.26 of Title 62 of the Oklahoma Statutes.

22 N. The Director shall have the authority of a peace officer and  
23 is authorized to commission assistants of the office as peace  
24 officers.

1       0. The Director is further authorized and directed to:

2       1. Be the primary investigative agency for the investigation of  
3 human trafficking or human smuggling offenses;

4       2. Advise, consult, and cooperate with other agencies or  
5 political subdivisions of this state, the federal government or  
6 other states and interstate agencies concerning human trafficking or  
7 human smuggling offenses;

8       3. Arrest or cause the arrest of any person when probable cause  
9 exists that such person is committing criminal offenses relating to  
10 human trafficking or human smuggling; and

11       4. Exercise all incidental powers necessary and proper for the  
12 administration and enforcement of this subsection.

13       SECTION 8.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 3311.14 of Title 70, unless  
15 there is created a duplication in numbering, reads as follows:

16       Beginning November 1, 2011, the Council on Law Enforcement  
17 Education and Training (CLEET), pursuant to its authority granted by  
18 Section 3311 of Title 70 of the Oklahoma Statutes, shall be  
19 authorized to establish and provide law enforcement training and  
20 education relating to illegal immigration. The training and  
21 education shall include, but not be limited to, relevant immigration  
22 law, illegal immigration enforcement and apprehension,  
23 identification and detention of illegal immigrants, and any relevant  
24 administrative, legal and operational issues related to the

1 performance of illegal immigration law enforcement functions. CLEET  
2 shall be authorized to pay for and send training staff and employees  
3 to one or more training and education courses in jurisdictions  
4 outside this state for the purpose of establishing an illegal  
5 immigration curriculum. CLEET shall promulgate rules as necessary  
6 to implement the provisions of this section.

7 SECTION 9. This act shall become effective November 1, 2011.

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