

**BILL #** HB 2589

**TITLE:** illegally entering Arizona; trespass

**SPONSOR:** Pearce

**STATUS:** As Amended by House JUD

**PREPARED BY:** Martin Lorenzo III

## FISCAL ANALYSIS

### Description

The bill establishes a class 1 misdemeanor (a class 4 felony for subsequent violations) for those in violation of federal immigration and naturalization laws addressing the unlawful entry, harboring or importation of an illegal immigrant into the state. The arresting authority must fingerprint the offender and transmit the fingerprint to the Department of Public Safety. Additionally, the bill gives the arresting authority the discretion to either transfer the person to the federal agency with jurisdiction or refer the offender for prosecution.

### Estimated Impact

HB 2589 is estimated to have a General Fund cost of \$117,000 in FY 2007 to process additional fingerprints. Costs to the state could potentially be higher as a result of increased workloads for law enforcement, judicial and corrections personnel. Additionally, there are potential costs associated with incarcerating individuals who violate the laws established by the bill. HB 2589 has the potential to generate revenue for both state and local governments resulting from the fines, fees and surcharges associated with the misdemeanor, and if applicable, felony charges.

The Department of Public Safety has not yet provided a fiscal estimate of the bill.

### Analysis

Currently, there are primarily 3 federal entities that enforce these federal laws and other laws related to illegal immigration. These entities include the Immigration and Customs Enforcement (ICE) agency, the United States Customs and Border Protection (CBP) agency, and to a lesser extent the Federal Bureau of Investigation (FBI).

The bill requires the arresting authority to fingerprint the individual and transmit the fingerprint to the Department of Public Safety. In general, federal law enforcement agencies are not subject to comply with state laws. As a result, federal law enforcement personnel who apprehend subjects in violation of the laws established by this bill would not be subject to transmitting the fingerprints to the Department of Public Safety (federal agencies take and store their own fingerprints).

In FY 2005, the number of unauthorized immigrants located by all CBP Border Patrol sectors in Arizona totaled roughly 577,392. Of this amount, 22,997 (or 4.0%) unauthorized immigrants were referred to CBP from other agencies including local, state, tribal and military entities. Additionally, in FY 2004 (FY 2005 data is currently unavailable), the number of unauthorized immigrants expelled by the ICE field office in Phoenix totaled 603,918. The number of ICE detainees referred from other agencies is unknown. As a result, this analysis assumes that the 4% local factor to CBP also applies to ICE. In that circumstance, there would be an additional 24,053 cases involving local law enforcement agencies.

In total this analysis assumes nearly 47,050 unauthorized immigrants' were referred to CBP and ICE from local, state, tribal and military entities. DPS would be responsible for inputting these fingerprints into their data system. The department has indicated that it would require an additional fingerprint technician for every 20,000 increase in the number of fingerprints to be processed annually. As a result, DPS could potentially need an additional 3 positions at a cost of \$39,000 each, for an annual cost of \$117,000.

These estimates may be overstated to the extent that the unauthorized immigrants may have been charged for violations of other immigration or non-immigration related state or federal laws in which fingerprints would have already been submitted to DPS. Additional costs may potentially arise due to increased workloads for law enforcement, judicial and corrections

personnel. The Department of Public Safety has estimated that it could take on average 2.5 hours to determine the individuals' immigration status and charge the individual, if necessary. However, it is unknown how often a local, state or tribal agency would have the ability to determine the individuals' immigration status and cite them for a violation of state laws relating to this statute. Should this situation occur, the law enforcement personnel would refer to either ICE or CBP to determine their status if they are available.

The bill may generate additional revenue from financial obligations resulting from misdemeanor and felony charges. Under the bill, the first trespassing by an unauthorized immigrant is a class 1 misdemeanor and subsequent violations are a Class 4 felony. A.R.S. § 13-801 and A.R.S. § 13-802 sets that the maximum fine for a misdemeanor and felony at not more than \$2,500 and \$150,000, respectively. The actual amounts would be fixed by the court. Additionally, a Class 1 misdemeanor and Class 4 felony carry sentences of, up to six months and two and one half years, respectively.

### **Local Government Impact**

The bill would have fiscal impacts to local law enforcement agency's that would be responsible for enforcement. The majority of costs would be due to increased workloads and the incarceration of persons who violate the law established by the bill. The additional costs are unknown at this time.

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