

113TH CONGRESS  
2D SESSION

# H. R. 4961

To prevent organized human smuggling, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2014

Mr. McCAUL introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prevent organized human smuggling, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Human Smuggling  
5       Prevention Act of 2014”.

6       **SEC. 2. ORGANIZED HUMAN SMUGGLING.**

7       (a) PROHIBITED ACTIVITIES.—Whoever, while acting  
8       for profit or other financial gain, knowingly directs or par-  
9       ticipates in an effort or scheme to assist or cause five or

1 more persons (other than a parent, spouse, or child of the  
2 offender)—

3 (1) to enter, attempt to enter, or prepare to  
4 enter the United States—

5 (A) by fraud, falsehood, or other corrupt  
6 means;

7 (B) at any place other than a port or place  
8 of entry designated by the Secretary of Home-  
9 land Security; or

10 (C) in a manner not prescribed by the im-  
11 migration laws and regulations of the United  
12 States; or

13 (2) to travel by air, land, or sea toward the  
14 United States (whether directly or indirectly)—

15 (A) knowing that the persons seek to enter  
16 or attempt to enter the United States without  
17 lawful authority; and

18 (B) with the intent to aid or further such  
19 entry or attempted entry; or

20 (3) to be transported or moved outside of the  
21 United States—

22 (A) knowing that such persons are aliens  
23 in unlawful transit from one country to another  
24 or on the high seas; and

1 (B) under circumstances in which the per-  
2 sons are in fact seeking to enter the United  
3 States without official permission or legal au-  
4 thority;  
5 shall be punished as provided in subsection (c) or  
6 (d).

7 (b) CONSPIRACY AND ATTEMPT.—Any person who  
8 attempts or conspires to violate subsection (a) of this sec-  
9 tion shall be punished in the same manner as a person  
10 who completes a violation of such subsection.

11 (c) BASE PENALTY.—Except as provided in sub-  
12 section (d), any person who violates subsection (a) or (b)  
13 shall be fined under title 18, United States Code, impris-  
14 oned for not more than 20 years, or both.

15 (d) ENHANCED PENALTIES.—Any person who vio-  
16 lates subsection (a) or (b) shall—

17 (1) in the case of a violation during and in rela-  
18 tion to which a serious bodily injury (as such term  
19 is defined in section 1365 of title 18, United States  
20 Code) occurs to any person, be fined under title 18,  
21 United States Code, imprisoned for not more than  
22 30 years, or both;

23 (2) in the case of a violation during and in rela-  
24 tion to which the life of any person is placed in jeop-

1 ardy, be fined under title 18, United States Code,  
2 imprisoned for not more than 30 years, or both;

3 (3) in the case of a violation involving ten or  
4 more persons, be fined under title 18, United States  
5 Code, imprisoned for not more than 30 years, or  
6 both;

7 (4) in the case of a violation involving the brib-  
8 ery or corruption of a United States or foreign gov-  
9 ernment official, be fined under title 18, United  
10 States Code, imprisoned for not more than 30 years,  
11 or both;

12 (5) in the case of a violation involving robbery  
13 or extortion (as such terms are defined in paragraph  
14 (1) or (2), respectively, of section 1951(b) of title  
15 18, United States Code) be fined under title 18,  
16 United States Code, imprisoned for not more than  
17 30 years, or both;

18 (6) in the case of a violation during and in rela-  
19 tion to which any person is subjected to an involun-  
20 tary sexual act (as such term is defined in section  
21 2246(2) of title 18, United States Code), be fined  
22 under title 18, United States Code, imprisoned for  
23 not more than 30 years, or both;

24 (7) in the case of a violation resulting in the  
25 death of any person, be fined under title 18, United

1 States Code, imprisoned for any term of years or for  
2 life, or both;

3 (8) in the case of a violation in which any alien  
4 is confined or restrained, including by the taking of  
5 clothing, goods, or personal identification documents,  
6 be fined under title 18, United States Code, impris-  
7 oned not fewer than five years and not more than  
8 ten years, or both;

9 (9) in the case of smuggling an unaccompanied  
10 alien child (as such term is defined in paragraph (2)  
11 of section 462(g) of the Homeland Security Act of  
12 2002 (6 U.S.C. 279(g)), be fined under title 18,  
13 United States Code, imprisoned not more than 20  
14 years.

15 (e) **LAWFUL AUTHORITY DEFINED.**—In this section,  
16 the term “lawful authority”—

17 (1) means permission, authorization, or license  
18 that is expressly provided for in the immigration  
19 laws of the United States or accompanying regula-  
20 tions; and

21 (2) does not include any such authority secured  
22 by fraud or otherwise obtained in violation of law,  
23 nor does it include authority sought, but not ap-  
24 proved.

1       (f) EFFORT OR SCHEME.—For purposes of this sec-  
2 tion, “effort or scheme to assist or cause five or more per-  
3 sons” does not require that the five or more persons enter,  
4 attempt to enter, prepare to enter, or travel at the same  
5 time so long as the acts are completed within one year.

6 **SEC. 3. STRATEGY TO COMBAT HUMAN SMUGGLING.**

7       (a) IN GENERAL.—Not later than one year after the  
8 date of the enactment of this Act, the Secretary of Home-  
9 land Security shall implement a strategy to deter, detect,  
10 and interdict human smuggling across the international  
11 land and maritime borders of the United States.

12       (b) COMPONENTS.—The strategy referred to in sub-  
13 section (a) shall include, at a minimum, the following com-  
14 ponents:

15               (1) Efforts to increase coordination between the  
16 border and maritime security components of the De-  
17 partment of Homeland Security.

18               (2) An identification of intelligence gaps imped-  
19 ing the ability to deter, detect, and interdict human  
20 smuggling across the international land and mari-  
21 time borders of the United States.

22               (3) Efforts to increase information sharing with  
23 State and local governments and other Federal  
24 agencies.

1           (4) Efforts to provide, in coordination with the  
2       Federal Law Enforcement Training Center, training  
3       for the border and maritime security components of  
4       the Department of Homeland Security to deter, de-  
5       tect, and interdict human smuggling across the  
6       international land and maritime borders of the  
7       United States.

8           (5) An identification of the high traffic areas of  
9       human smuggling along the international land and  
10      maritime borders of the United States.

11      (c) REPORT.—Not later than 30 days after the imple-  
12      mentation of the strategy referred to in subsection (a),  
13      the Secretary of Homeland Security shall submit to the  
14      Committee on Homeland Security of the House of Rep-  
15      resentatives and the Committee on Homeland Security  
16      and Governmental Affairs of the Senate a report that de-  
17      scribes such strategy, including the components described  
18      in subsection (b). If the Secretary determines that such  
19      is appropriate, such report may be submitted in classified  
20      form.

21      (d) ANNUAL LIST OF HIGH TRAFFIC AREAS.—Not  
22      later than February 1 of every year beginning in the year  
23      after the date of the enactment of this Act, the Secretary  
24      of Homeland Security shall submit to the Committee on  
25      Homeland Security of the House of Representatives and

1 the Committee on Homeland Security and Governmental  
2 Affairs of the Senate a list of the high traffic areas of  
3 human smuggling referred to in subsection (b)(5).

4 (e) HIGH TRAFFIC AREAS OF HUMAN SMUGGLING  
5 DEFINED.—In this Act, the term “high traffic areas of  
6 human smuggling” means the United States ports of entry  
7 and areas between such ports that have the most human  
8 smuggling activity, as measured by U.S. Customs and  
9 Border Protection.

10 **SEC. 4. UNLAWFULLY HINDERING IMMIGRATION, BORDER,**  
11 **AND CUSTOMS CONTROLS.**

12 (a) ILLICIT SPOTTING.—Whoever knowingly trans-  
13 mits to another person the location, movement, or activi-  
14 ties of any Federal, State, or tribal law enforcement agen-  
15 cy with the intent to further a Federal crime relating to  
16 United States immigration, customs, controlled sub-  
17 stances, agriculture, monetary instruments, or other bor-  
18 der controls shall be fined under title 18, United States  
19 Code, imprisoned not more than 10 years, or both.

20 (b) DESTRUCTION OF UNITED STATES BORDER  
21 CONTROLS.—Whoever knowingly and without lawful au-  
22 thorization destroys, alters, or damages any fence, barrier,  
23 sensor, camera, or other physical or electronic device de-  
24 ployed by the Federal Government to control the border  
25 or a port of entry, or otherwise seeks to construct, exca-



1 vate, or make any structure intended to defeat, circumvent  
2 or evade any such fence, barrier, sensor camera, or other  
3 physical or electronic device deployed by the Federal Gov-  
4 ernment to control the border or a port of entry, shall  
5 be fined under title 18, United States Code, imprisoned  
6 not more than 10 years, or both, and if, at the time of  
7 the offense, the person uses or carries a firearm or, in  
8 furtherance of any such crime, possesses a firearm, that  
9 person shall be fined under title 18, United States Code,  
10 imprisoned not more than 20 years, or both.

11 (c) CONSPIRACY AND ATTEMPT.—Any person who at-  
12 tempts or conspires to violate subsection (a) or (b) shall  
13 be punished in the same manner as a person who com-  
14 pletes a violation of such subsection.

15 (d) PROHIBITING CARRYING OR USE OF A FIREARM  
16 DURING AND IN RELATION TO AN ALIEN SMUGGLING  
17 CRIME.—Section 924(c) of title 18, United States Code,  
18 is amended—

19 (1) in paragraph (1)—

20 (A) in subparagraph (A), by inserting “,  
21 alien smuggling crime,” after “crime of vio-  
22 lence” each place such term appears; and

23 (B) in subparagraph (D)(ii), by inserting  
24 “, alien smuggling crime,” after “crime of vio-  
25 lence”; and

1           (2) by adding at the end the following:

2           “(6) For purposes of this subsection, the term  
3           ‘alien smuggling crime’ means any felony punishable  
4           under section 274(a), 277, or 278 of the Immigra-  
5           tion and Nationality Act (8 U.S.C. 1324(a), 1327,  
6           and 1328).”.

7           (e) STATUTE OF LIMITATIONS.—Section 3298 of title  
8           18, United States Code, is amended by inserting “, or  
9           under section 2 or subsection (a), (b), or (c) of section  
10          4 of the Human Smuggling Prevention Act of 2014,” after  
11          “Immigration and Nationality Act”.

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