

3-8-95 Judiciary
3-16-95 Do Pass
H- 3/24/95 Judiciary
FILED MAR 8 1995
H- 4-6-95 Do Pass
H- 4/13/95 unfinished Business
Kevanlar

SENATE FILE 284
BY HANSEN H- 3/6/96 Amend/Do Pass

4/10/96 H. Motion to R/C w/H-5221
4/18/96 Motion to R/C ^{to R/C} _{Prevailed}
P. 1534

(p. 814)
Passed Senate, Date 3/22/95
Vote: Ayes 50 Nays 0
Approved May 1, 1996

Passed House, Date 4-10-96
Vote: Ayes 89 Nays 6
Passed 4-18-96
Vote 92-0

A BILL FOR

1 An Act relating to the crime of forgery, by prohibiting the
2 knowing possession of forged writings, including documents
3 prescribed for entry into, stay, or employment in the United
4 States, and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 284

1 Section 1. Section 715A.2, subsection 1, Code 1995, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. Possesses a writing which the person
4 knows to be forged in a manner specified in paragraph "a" or
5 "b".

6 Sec. 2. Section 715A.2, subsection 2, paragraph a, Code
7 1995, is amended to read as follows:

8 a. Forgery is a class "D" felony if the writing is or
9 purports to be part any of the following:

10 (1) Part of an issue of money, securities, postage or
11 revenue stamps, or other instruments issued by the government,
12 or-part.

13 (2) Part of an issue of stock, bonds, credit-sale
14 contracts as defined in section 203.1, or other instruments
15 representing interests in or claims against any property or
16 enterprise, or-a.

17 (3) A check, draft, or other writing which ostensibly
18 evidences an obligation of the person who has purportedly
19 executed it or authorized its execution.

20 (4) A document prescribed by statute, rule, or regulation
21 for entry into or as evidence of authorized stay or employment
22 in the United States.

23 EXPLANATION

24 This bill adds to the grounds upon which the crime of
25 forgery can be charged, the knowing possession of a writing
26 that has been forged with the intent to defraud. The bill
27 adds to the kinds of writings for which class "D" felony
28 penalties are applicable, if those writings are forged,
29 documents prescribed by statute, rule, or regulation for entry
30 into or as evidence of authorized stay or employment in the
31 United States.

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**SENATE FILE 284
FISCAL NOTE**

The estimate for Senate File 284 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 284 provides for additional conditions upon which the crime of forgery can be charged. The Bill adds to the types of writings for which class "D" felony penalties are applicable, if those writings are forged, documents prescribed by statute, rule, or regulation for entry into or as evidence of authorized stay or employment in the United States.

Assumptions:

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. Lag effects are assumed from the law's effective date to the date of first entry of affected offenders in the correctional system.
4. It is reasonable to assume that approximately 1,000 persons may be charged and convicted of a class "D" felony as a result of SF 284.
5. No probation or parole revocations will occur, as such individuals will be turned over to the United States immigration authorities.

Fiscal Impact:

The United States Department of Immigration and Naturalization indicates that approximately 1,000 deportations of persons apprehended in Iowa occur each year and possession of forged documents are applicable to all such deportations. It is estimated that each individual apprehended will be charged and convicted of a class "D" felony for possession of falsified documents, resulting in the following correctional impact on prisons and Community-Based Correction facilities populations:

Increase in Admissions to Prison

	FY 1996	FY 1997	FY 2000
Admissions	139	278	278
Population Increase	139	278	278

The number of admissions to prison is estimated to be 139 in FY 1996, which is based on the assumption that approximately 500 charges and convictions will be made the first year due to lag effects. By FY 1997, the number of charges and

-2-

convictions will likely increase to 1,000, increasing the number of admissions to prison to 278. The average length of stay for each conviction is estimated to be one year.

Increase in Admissions: Community-Based Corrections

	FY 1996	FY 1997	FY 2000
Facilities	-----	-----	-----
Admissions	48	96	96
Probation/Parole			
Admissions	150	300	300

The number of admissions to Community-Based Corrections facilities is estimated to be 48 and for probation/parole (Community-Based Corrections) is estimated to be 150 by FY 1997 (based on lag effects and average length of stay of one year).

The estimated fiscal effect to the State General Fund is as follows:

	FY 1996	FY 1997	FY 2000
Dept. of Corrections	-----	-----	-----
Prison	\$ 552,000	\$1,104,000	\$1,104,000
Community-Based Corrections			
Facilities	1,018,000	2,036,000	2,036,000
Probation/Parole	96,000	193,000	193,000
Total	\$1,666,000	\$3,333,000	\$3,333,000

NOTE: The average marginal cost per year for a prison inmate is approximately \$4,000. The FY 1994 average daily costs for inmates in Community-Based Corrections facilities was \$58.10 per day and \$1.76 per day for probation/parole.

Judicial Department - SF 284 creates a new criminal offense or new cause of action. The cost to the General Fund for each case tried at the District Court level is estimated to be \$7,600 and \$44,000 at the Appellate Court level.

Sources:

Criminal Juvenile Justice Planning
 Department of Corrections
 Judicial Department

(LSB 1912ss, LAM)

FILED MARCH 23, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 284

H-5888

1 Amend Senate File 284, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 91E.3, subsection 1, Code
6 1995, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. e. That possession of forged
9 documentation authorizing the person to stay or be
10 employed in the United States is a class "D" felony."

11 2. Page 1, by inserting after line 22 the
12 following:

13 "Sec. ____ . NEW SECTION. 715A.2A ACCOMMODATION OF
14 FORGERY -- PENALTY.

15 1. An employer who hires or employs another person
16 when the employer or an agent or employee of the
17 employer knows that the document evidencing the
18 person's authorized stay or employment in the United
19 States is in violation of section 715A.2, subsection
20 2, paragraph "a", subparagraph (4) or knows that the
21 person is not authorized to be employed in the United
22 States, shall be subject to the following civil
23 penalty:

24 a. For hiring or employing one person, a penalty
25 of not less than five hundred dollars but not more
26 than one thousand dollars.

27 b. For hiring or employing two or more persons
28 whose entry, study, or employment documentation is
29 forged, a penalty of five hundred dollars per person
30 hired or employed but not more than two thousand
31 dollars per person hired or employed.

32 In addition, an employer found to have hired or
33 employed a person with forged documents authorizing
34 the person's stay or employment in the United States
35 shall be assessed the costs of the action to enforce
36 the civil penalty, including the reasonable costs of
37 investigation and attorneys' fees.

38 2. A civil action to enforce this provision shall
39 be by equitable proceedings instituted by the attorney
40 general or county attorney.

41 3. Penalties ordered pursuant to this section
42 shall be paid to the treasurer of state for deposit in
43 the general fund of the state."

44 3. Title page, line 4, by striking the word
45 "penalties" and inserting the following: "criminal
46 penalties and providing civil penalties for employers
47 hiring individuals with forged documents regarding the
48 individuals' entry into, study, or employment in the
49 United States".

50 4. By renumbering as necessary.

By DODERER of Johnson

MYERS of Johnson

KREIMAN of Davis

HOLVECK of Polk

H-5888 FILED APRIL 9, 1996

adopted 4.10.96 (p. 1535)

SENATE FILE 284

H-5221

1 Amend Senate File 284, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 91E.3, subsection 1, Code
6 1995, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. e. That possession of forged
9 documentation authorizing the person to stay or be
10 employed in the United States is a class "D" felony."

11 2. Page 1, by inserting after line 22 the
12 following:

13 "Sec. NEW SECTION. 715A.2A ACCOMMODATION OF
14 FORGERY -- PENALTY.

15 1. An employer who hires or employs another person
16 when the employer or an agent or employee of the
17 employer knows or should know that the document
18 evidencing the person's authorized stay or employment
19 in the United States is in violation of section
20 715A.2, subsection 2, paragraph "a", subparagraph (4)
21 or knows or should know that the person is not
22 authorized to be employed in the United States, shall
23 be subject to the following civil penalty:

24 a. For hiring or employing one person, a penalty
25 of not less than five hundred dollars but not more
26 than one thousand dollars.

7 b. For hiring or employing two or more persons
28 whose entry, study, or employment documentation is
29 forged, a penalty of five hundred dollars per person
30 hired or employed but not more than two thousand
31 dollars per person hired or employed.

32 In addition, an employer found to have hired or
33 employed a person with forged documents authorizing
34 the person's stay or employment in the United States
35 shall be assessed the costs of the action to enforce
36 the civil penalty, including the reasonable costs of
37 investigation and attorneys' fees.

38 2. A civil action to enforce this provision shall
39 be by equitable proceedings instituted by the attorney
40 general or county attorney.

41 3. Penalties ordered pursuant to this section
42 shall be paid to the treasurer of state for deposit in
43 the general fund of the state."

44 3. Title page, line 4, by striking the word
45 "penalties" and inserting the following: "criminal
46 penalties and providing civil penalties for employers
47 hiring individuals with forged documents regarding the
48 individuals' entry into, study, or employment in the
49 United States".

50 4. By renumbering as necessary.

By COMMITTEE ON JUDICIARY

BY HURLEY of Fayette, Chairperson

-5221 FILED MARCH 6, 1996

WITHDRAWN 4/9/96 (p. 1472)

SENATE FILE 284

H-6024

1 Amend the amendment, H-5888, to Senate File 284, as
2 passed by the Senate, as follows:

3 1. Page 1, by inserting after line 10 the
4 following:

5 " . Page 1, by striking lines 6 through 22 and
6 inserting the following:

7 "Sec. . Section 715A.2, subsection 2, paragraph
8 b, Code 1995, is amended to read as follows:

9 b. Forgery is an aggravated misdemeanor if the
10 writing is or purports to be a document prescribed by
11 statute, rule, or regulation for entry into or as
12 evidence of authorized stay or employment in the
13 United States, will, deed, contract, release,
14 commercial instrument, or any other writing or other
15 document evidencing, creating, transferring, altering,
16 terminating, or otherwise affecting legal relations.
17 A person convicted of an aggravated misdemeanor under
18 this paragraph, where the forged document was one
19 prescribed by statute, rule, or regulation for entry
20 into or as evidence of authorized stay or employment
21 in the United States, shall be sentenced to an
22 indeterminate term of confinement of not less than one
23 year and one day."

24 2. Page 1, by striking lines 15 through 31 and
25 inserting the following:

26 "1. An employer is subject to the civil penalty in
27 this section if the employer does either of the
28 following:

29 a. Hires a person when the employer or an agent or
30 employee of the employer knows that the document
31 evidencing the person's authorized stay or employment
32 in the United States is in violation of section
33 715A.2, subsection 2, paragraph "a", subparagraph (4),
34 or knows that the person is not authorized to be
35 employed in the United States.

36 b. Continues to employ a person when the employer
37 or an agent or employee of the employer knows that the
38 document evidencing the person's authorized stay or
39 employment in the United States is in violation of
40 section 715A.2, subsection 2, paragraph "a",
41 subparagraph (4), or knows that the person is not
42 authorized to be employed in the United States.

43 2. An employer who establishes that it has
44 complied in good faith with the requirements of 8
45 U.S.C. § 1324(b) with respect to the hiring or
46 continued employment of an alien in the United States
47 has established an affirmative defense that the
48 employer has not violated this section.

49 3. An employer who violates this section shall
50 cease and desist from further violations and shall pay

H-6024

H-6024

Page 2

1 the following civil penalty:

2 a. For a first violation, not less than two
3 hundred and fifty dollars and not more than two
4 thousand dollars for each unauthorized alien hired or
5 employed.

6 b. For a second violation, not less than two
7 thousand dollars and not more than five thousand
8 dollars for each unauthorized alien hired or employed.

9 c. For a third or subsequent violation, not less
10 than three thousand dollars and not more than ten
11 thousand dollars for each unauthorized alien hired or
12 employed."

13 3. Page 1, by striking lines 32 through 34 and
14 inserting the following:

15 "In addition, an employer found to have violated
16 this section".

17 4. Page 1, line 38, by striking the figure "2"
18 and inserting the following: "4".

19 5. Page 1, line 41, by striking the figure "3"
20 and inserting the following: "5".

21 6. By renumbering as necessary.

By DODERER of Johnson

HOLVECK of Polk

KREIMAN of Davis

RANTS of Woodbury

H-6024 FILED APRIL 18, 1996

A. Withdrawn 4-18-96 (P. 1754)
B. Adopted 4-18-96 (P. 1754)

HOUSE AMENDMENT TO
SENATE FILE 284

S-5817

1 Amend Senate File 284, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 91E.3, subsection 1, Code
6 1995, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. e. That possession of forged
9 documentation authorizing the person to stay or be
10 employed in the United States is a class "D" felony."

11 2. Page 1, by inserting after line 22 the
12 following:

13 "Sec. ____ . NEW SECTION. 715A.2A ACCOMMODATION OF
14 FORGERY -- PENALTY.

15 1. An employer is subject to the civil penalty in
16 this section if the employer does either of the
17 following:

18 a. Hires a person when the employer or an agent or
19 employee of the employer knows that the document
20 evidencing the person's authorized stay or employment
21 in the United States is in violation of section
22 715A.2, subsection 2, paragraph "a", subparagraph (4),
23 or knows that the person is not authorized to be
24 employed in the United States.

25 b. Continues to employ a person when the employer
26 or an agent or employee of the employer knows that the
27 document evidencing the person's authorized stay or
28 employment in the United States is in violation of
29 section 715A.2, subsection 2, paragraph "a",
30 subparagraph (4), or knows that the person is not
31 authorized to be employed in the United States.

32 2. An employer who establishes that it has
33 complied in good faith with the requirements of 8
34 U.S.C. § 1324(b) with respect to the hiring or
35 continued employment of an alien in the United States
36 has established an affirmative defense that the
37 employer has not violated this section.

38 3. An employer who violates this section shall
39 cease and desist from further violations and shall pay
40 the following civil penalty:

41 a. For a first violation, not less than two
42 hundred and fifty dollars and not more than two
43 thousand dollars for each unauthorized alien hired or
44 employed.

45 b. For a second violation, not less than two
46 thousand dollars and not more than five thousand
47 dollars for each unauthorized alien hired or employed.

48 c. For a third or subsequent violation, not less
49 than three thousand dollars and not more than ten
50 thousand dollars for each unauthorized alien hired or

S-5817

S-5817

Page 2

1 employed.

2 In addition, an employer found to have violated
3 this section shall be assessed the costs of the action
4 to enforce the civil penalty, including the reasonable
5 costs of investigation and attorneys' fees.

6 4. A civil action to enforce this provision shall
7 be by equitable proceedings instituted by the attorney
8 general or county attorney.

9 5. Penalties ordered pursuant to this section
10 shall be paid to the treasurer of state for deposit in
11 the general fund of the state."

12 3. Title page, line 4, by striking the word
13 "penalties" and inserting the following: "criminal
14 penalties and providing civil penalties for employers
15 hiring individuals with forged documents regarding the
16 individuals' entry into, study, or employment in the
17 United States".

18 4. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5817 FILED APRIL 18, 1996

Senate Concurred 4/23/96 (P. 1479)

SENATE FILE 284

AN ACT

RELATING TO THE CRIME OF FORGERY, BY PROHIBITING THE KNOWING POSSESSION OF FORGED WRITINGS, INCLUDING DOCUMENTS PRESCRIBED FOR ENTRY INTO, STAY, OR EMPLOYMENT IN THE UNITED STATES, AND PROVIDING CRIMINAL PENALTIES AND PROVIDING CIVIL PENALTIES FOR EMPLOYERS HIRING INDIVIDUALS WITH FORGED DOCUMENTS REGARDING THE INDIVIDUALS' ENTRY INTO, STUDY, OR EMPLOYMENT IN THE UNITED STATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 91E.3, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. That possession of forged documentation authorizing the person to stay or be employed in the United States is a class "D" felony.

Sec. 2. Section 715A.2, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Possesses a writing which the person knows to be forged in a manner specified in paragraph "a" or "b".

Sec. 3. Section 715A.2, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. Forgery is a class "D" felony if the writing is or purports to be part any of the following:

(1) Part of an issue of money, securities, postage or revenue stamps, or other instruments issued by the government, ~~or-part.~~

(2) Part of an issue of stock, bonds, credit-sale contracts as defined in section 203.1, or other instruments representing interests in or claims against any property or enterprise, ~~or-a.~~

(3) A check, draft, or other writing which ostensibly evidences an obligation of the person who has purportedly executed it or authorized its execution.

(4) A document prescribed by statute, rule, or regulation for entry into or as evidence of authorized stay or employment in the United States.

Sec. 4. NEW SECTION. 715A.2A ACCOMMODATION OF FORGERY -- PENALTY.

1. An employer is subject to the civil penalty in this section if the employer does either of the following:

a. Hires a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of section 715A.2, subsection 2, paragraph "a", subparagraph (4), or knows that the person is not authorized to be employed in the United States.

b. Continues to employ a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of section 715A.2, subsection 2, paragraph "a", subparagraph (4), or knows that the person is not authorized to be employed in the United States.

2. An employer who establishes that it has complied in good faith with the requirements of 8 U.S.C. § 1324(b) with respect to the hiring or continued employment of an alien in the United States has established an affirmative defense that the employer has not violated this section.

3. An employer who violates this section shall cease and desist from further violations and shall pay the following civil penalty:

a. For a first violation, not less than two hundred and fifty dollars and not more than two thousand dollars for each unauthorized alien hired or employed.

b. For a second violation, not less than two thousand dollars and not more than five thousand dollars for each unauthorized alien hired or employed.

c. For a third or subsequent violation, not less than three thousand dollars and not more than ten thousand dollars for each unauthorized alien hired or employed.

In addition, an employer found to have violated this section shall be assessed the costs of the action to enforce the civil penalty, including the reasonable costs of investigation and attorneys' fees.

4. A civil action to enforce this provision shall be by equitable proceedings instituted by the attorney general or county attorney.

5. Penalties ordered pursuant to this section shall be paid to the treasurer of state for deposit in the general fund of the state.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 284, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 1, 1996

TERRY E. BRANSTAD
Governor