

1 funding; providing that law enforcement
2 officers trained in accordance with such
3 programs are authorized to enforce federal
4 immigration and customs laws while performing
5 within the scope of their authorized duties;
6 providing requirements and procedures with
7 respect to the determination of lawful
8 immigration status of persons charged with a
9 crime and confined to jail; providing
10 construction; requiring the Florida Sheriffs
11 Association to prepare and issue specified
12 guidelines and procedures; requiring agencies
13 and political subdivisions of the state to
14 verify the lawful presence in the United States
15 of any natural person 18 years of age or older
16 who has applied for state or local public
17 benefits, or for federal public benefits, that
18 are administered by an agency or a political
19 subdivision of the state by a specified date;
20 providing for enforcement; providing
21 exceptions; requiring the Board of Governors of
22 the State University System to set forth
23 policies regarding postsecondary education
24 benefits; providing procedures and requirements
25 with respect to verification of lawful presence
26 in the United States by an agency or political
27 subdivision; providing a penalty for knowingly
28 and willfully making a false, fictitious, or
29 fraudulent statement or representation in an
30 affidavit executed under the act; providing
31 procedure with respect to verification of

1 eligibility for benefits; prohibiting any
2 agency or political subdivision of this state
3 from providing any state, local, or federal
4 benefit in violation of the act; providing for
5 specified annual reports; creating s. 337.163,
6 F.S.; providing definitions; prohibiting the
7 Department of Transportation from entering into
8 a contract for the physical performance of
9 services within this state with contractors not
10 registered and participating in a federal work
11 authorization program by a specified date;
12 prohibiting a contractor who receives a
13 contract award from the department for the
14 performance of services within this state from
15 executing a contract, purchase order, or
16 subcontract in connection with the award unless
17 the contractor and all subcontractors providing
18 services register and participate in a federal
19 work authorization program; providing
20 procedures and requirements with respect to the
21 registration of contractors and subcontractors;
22 providing for enforcement; requiring the
23 Secretary of Transportation to prescribe forms
24 and adopt rules; providing effective dates.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Chapter 986, Florida Statutes, consisting
29 of sections 986.01, 986.02, 986.03, 986.04, 986.05, 986.06,
30 and 986.07, is created to read:

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1 986.01 Short title.--This chapter may be cited as the
2 "Florida Security and Immigration Compliance Act."
3 986.02 Construction.--All requirements of this chapter
4 concerning immigration or the classification of immigration
5 status shall be construed in conformity with federal
6 immigration law.
7 986.03 Definitions.--As used in this chapter:
8 (1) "Federal work authorization program" means any
9 program operated by the United States Department of Homeland
10 Security which provides electronic verification of work
11 authorization issued by the United States Bureau of
12 Citizenship and Immigration Services or any equivalent federal
13 work authorization program operated by the United States
14 Department of Homeland Security which provides for the
15 verification of information regarding newly hired employees
16 under the Immigration Reform and Control Act of 1986, Pub. L.
17 No. 99-603.
18 (2) "Public employer" means any department, agency, or
19 instrumentality of the state or a political subdivision of the
20 state.
21 (3) "Subcontractor" means any entity providing
22 services for a contractor, whether as subcontractor, contract
23 employee, staffing agency, or other entity, regardless of the
24 level of subcontracting duties, if the services provided are
25 related to the contractor's contract with an agency.
26 986.04 Compliance with federal work authorization
27 program.--
28 (1) Commencing July 1, 2008, no public employer shall
29 enter into a contract under s. 287.057 for the physical
30 performance of services within this state unless the
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1 contractor registers and participates in a federal work
2 authorization program.

3 (2) No contractor who receives a contract award under
4 s. 287.057 for the physical performance of services within
5 this state shall execute a contract, purchase order, or
6 subcontract in connection with the award unless the contractor
7 and all subcontractors providing services for the contractor
8 register and participate in a federal work authorization
9 program. The contractor shall certify in writing to the agency
10 that it is in compliance with this subsection.

11 (3) A contractor shall ensure that each subcontractor
12 providing services for the contractor registers and
13 participates in a federal work authorization program. Each
14 subcontractor shall certify in writing to the contractor that
15 it is in compliance with this subsection.

16 (4) This section shall be enforced without regard to
17 race, religion, gender, ethnicity, or national origin.

18 (5) Except as provided in s. 337.163(6), the Secretary
19 of Business and Professional Regulation shall prescribe forms
20 and adopt rules deemed necessary to administer and effectuate
21 this section and shall publish such rules on the Department of
22 Business and Professional Regulation's Internet website.

23 986.05 Chief of Domestic Security; responsibilities.--

24 (1)(a) The Chief of Domestic Security, as defined in
25 s. 943.0311, shall negotiate the terms of a memorandum of
26 understanding between the State of Florida and the United
27 States Department of Justice or the United States Department
28 of Homeland Security concerning:

29 1. The enforcement of federal immigration and customs
30 laws.

31

1 2. The detention and removal of individuals not
2 lawfully present in the United States.

3 3. Investigations related to illegal immigration in
4 the state.

5 4. The establishment of law enforcement training
6 standards and the creation of law enforcement training
7 programs as provided in subsection (2).

8 (b) The memorandum of understanding shall be signed on
9 behalf of the state by the Chief of Domestic Security and the
10 Governor, or as otherwise required by the appropriate federal
11 agency.

12 (2)(a) Contingent upon funding in the federal Homeland
13 Security Appropriation Act of 2007 or any subsequent source of
14 federal funding, the Chief of Domestic Security shall work
15 with the regional domestic security task forces and the
16 various state entities responsible for establishing training
17 standards applicable to state law enforcement officers to
18 establish training standards and create training programs the
19 purpose of which is to enhance the ability of law enforcement
20 officers to enforce federal immigration and customs laws while
21 performing within the scope of their authorized duties.

22 (b) A law enforcement officer certified as trained in
23 accordance with this section is authorized to enforce federal
24 immigration and customs laws while performing within the scope
25 of his or her authorized duties.

26 986.06 Determination of lawful status.--

27 (1) If verification of the nationality or lawful
28 immigration status of any person who is charged with a crime
29 and confined to jail for any period of time cannot be made
30 from documents in the possession of the prisoner or after a
31 reasonable effort on the part of law enforcement officials to

1 determine the nationality or immigration status of the person
2 so confined, verification shall be made within 48 hours
3 through a query to the Law Enforcement Support Center (LESC)
4 of the United States Department of Homeland Security or other
5 office or agency designated for that purpose by the United
6 States Department of Homeland Security. If it is determined
7 that the prisoner is in the United States unlawfully, the law
8 enforcement agency shall notify the United States Department
9 of Homeland Security.

10 (2) Nothing in this section shall be construed to deny
11 a person bond or prevent a person from being released from
12 confinement if such person is otherwise eligible for release.

13 (3) The Florida Sheriffs Association shall prepare and
14 issue guidelines and procedures for compliance with the
15 provisions of this section.

16 986.07 Agencies, political subdivisions;
17 requirements.--

18 (1) Except as provided in subsection (3) or where
19 exempted by federal law, no later than July 1, 2008, every
20 agency or political subdivision of this state shall verify the
21 lawful presence in the United States of any natural person 18
22 years of age or older who has applied for state or local
23 public benefits, as defined in 8 U.S.C. s. 1621, or for
24 federal public benefits, as defined in 8 U.S.C. s. 1611, which
25 are administered by the agency or political subdivision.

26 (2) This section shall be enforced without regard to
27 race, religion, gender, ethnicity, or national origin.

28 (3) Verification of an individual's lawful presence in
29 the United States under this section shall not be required
30 for:

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1 (a) Any purpose for which lawful presence in the
2 United States is not required by law, ordinance, or
3 regulation;

4 (b) Assistance for health care items and services that
5 are necessary for the treatment of an emergency medical
6 condition, as defined in 42 U.S.C. s. 1396b(v)(3), of the
7 alien involved and are not related to an organ transplant
8 procedure;

9 (c) Short-term, noncash, in-kind emergency disaster
10 relief;

11 (d) Public health assistance for immunizations with
12 respect to immunizable diseases and for testing and treatment
13 of symptoms of communicable diseases whether or not such
14 symptoms are caused by a communicable disease;

15 (e) Programs, services, or assistance such as soup
16 kitchens, crisis counseling and intervention, and short-term
17 shelter specified by the United States Attorney General, in
18 the United States Attorney General's sole and unreviewable
19 discretion after consultation with appropriate federal
20 agencies and departments, which:

21 1. Deliver in-kind services at the community level,
22 including through public or private nonprofit agencies;

23 2. Do not condition the provision of assistance, the
24 amount of assistance provided, or the cost of assistance
25 provided on the individual recipient's income or resources;
26 and

27 3. Are necessary for the protection of life or safety;

28 (f) Prenatal care; or

29 (g) Postsecondary education.

30 (4) The Board of Governors of the State University
31 System shall set forth, or cause to be set forth, policies

1 regarding postsecondary education benefits that comply with
2 all applicable federal laws including, but not limited to,
3 those governing ineligibility for public benefits as described
4 in 8 U.S.C. s. 1611, s. 1621, or s. 1623.

5 (5)(a) Verification of lawful presence in the United
6 States by the agency or political subdivision required to make
7 such verification shall occur as follows:

8 1. The applicant for benefits must execute an
9 affidavit stating that he or she is a United States citizen or
10 a permanent legal resident of the United States and is 18
11 years of age or older; or

12 2. The applicant for benefits must execute an
13 affidavit stating that he or she is a qualified alien or
14 nonimmigrant under the federal Immigration and Nationality
15 Act, is 18 years of age or older, and is lawfully present in
16 the United States.

17 (b) Any person who knowingly and willfully makes a
18 false, fictitious, or fraudulent statement or representation
19 in an affidavit executed pursuant to paragraph (a) commits a
20 misdemeanor of the first degree, punishable as provided in s.
21 775.082 or s. 775.083.

22 (6) For any applicant who has executed an affidavit
23 attesting to the fact that he or she is an alien lawfully
24 present in the United States, eligibility for benefits shall
25 be made through the Systematic Alien Verification for
26 Entitlements Program (SAVE) established by the United States
27 Bureau of Citizenship and Immigration Services or a successor
28 program designated by the United States Department of Homeland
29 Security. Until such verification of eligibility is made, the
30 affidavit may be presumed to be proof of lawful presence in
31 the United States for the purposes of this section.

1 (7) In carrying out the provisions of this section,
2 agencies or political subdivisions of this state shall
3 endeavor to improve efficiency, reduce delay in the
4 verification process, and provide for the expedient resolution
5 of unique individual circumstances where verification
6 procedures would impose an unusual hardship on a legal
7 resident of the state.

8 (8)(a) No agency or political subdivision of this
9 state shall provide any state, local, or federal benefit, as
10 defined in 8 U.S.C. s. 1611 or s. 1621, in violation of this
11 section.

12 (b) Each state agency or department that administers
13 any program of state or local public benefits shall compile an
14 annual report with respect to its compliance with this
15 section.

16 (9) Any and all errors and significant delays by the
17 Systematic Alien Verification for Entitlements Program shall
18 be reported to the United States Department of Homeland
19 Security and to the Secretary of State, who will monitor the
20 program and its verification application errors and
21 significant delays and report annually on such errors and
22 significant delays to ensure that the application of the
23 program is not wrongfully denying benefits to legal residents
24 of the state.

25 (10) Notwithstanding subsection (5), any applicant for
26 federal benefits as defined in 8 U.S.C. s. 1611 or state or
27 local benefits as defined in 8 U.S.C. s. 1621 shall not be
28 guilty of any crime for executing an affidavit attesting to
29 lawful presence in the United States which contains a false
30 statement if such affidavit is not required by this section.

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1 Section 2. Section 337.163, Florida Statutes, is
2 created to read:

3 337.163 Compliance with federal work authorization
4 program.--

5 (1) As used in this section, the term:

6 (a) "Federal work authorization program" means any
7 program operated by the United States Department of Homeland
8 Security which provides electronic verification of work
9 authorization issued by the United States Bureau of
10 Citizenship and Immigration Services or any equivalent federal
11 work authorization program operated by the United States
12 Department of Homeland Security which provides for the
13 verification of information regarding newly hired employees
14 under the Immigration Reform and Control Act of 1986, Pub. L.
15 No. 99-603.

16 (b) "Subcontractor" means any entity providing
17 services for a contractor, whether as subcontractor, contract
18 employee, staffing agency, or other entity, regardless of the
19 level of subcontracting duties, if the services provided are
20 related to the contractor's contract with the department.

21 (2) Commencing July 1, 2008, the department shall not
22 enter into a contract under this chapter for the physical
23 performance of services within this state unless the
24 contractor registers and participates in a federal work
25 authorization program.

26 (3) No contractor who receives a contract award under
27 this chapter for the physical performance of services within
28 this state shall execute a contract, purchase order, or
29 subcontract in connection with the award unless the contractor
30 and all subcontractors providing services for the contractor
31 register and participate in a federal work authorization

1 program. The contractor shall certify in writing to the
2 department that it is in compliance with this subsection.

3 (4) A contractor shall ensure that each subcontractor
4 providing services for the contractor registers and
5 participates in a federal work authorization program. Each
6 subcontractor shall certify in writing to the contractor that
7 it is in compliance with this subsection.

8 (5) This section shall be enforced without regard to
9 race, religion, gender, ethnicity, or national origin.

10 (6) The Secretary of Transportation shall prescribe
11 all forms and adopt rules deemed necessary for the application
12 of this section to any contract or agreement relating to
13 public transportation and shall publish such rules and
14 regulations on the department's Internet website.

15 Section 3. This act shall take effect July 1, 2007,
16 except that subsection (2) of section 986.05, Florida
17 Statutes, as created by this act, shall take effect only if
18 funding under the federal Homeland Security Appropriation Act
19 of 2007 or any subsequent source of federal funding is
20 provided to fund the provisions of that subsection.
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