

1 A bill to be entitled

2 An act relating to illegal immigration; providing a short
3 title; providing legislative findings; creating s.
4 111.076, F.S.; prohibiting restrictions on the reporting
5 of certain immigration status information by public
6 employees; providing for a writ of mandamus to compel
7 compliance with certain laws; creating ss. 125.582 and
8 166.04935, F.S.; prohibiting certain local government
9 restrictions concerning communication or cooperation with
10 federal officials concerning immigration law enforcement;
11 amending ss. 316.193 and 327.35, F.S.; requiring
12 verification of the immigration status of certain persons
13 confined for driving under the influence or boating under
14 the influence; creating s. 322.0516, F.S.; prohibiting
15 issuance of driver's licenses or identification cards to
16 persons other than United States citizens or persons with
17 specified legal immigration status; providing for
18 submission of specified status documentation; limiting
19 duration of licenses or identification cards for certain
20 persons based on immigration status; amending s. 322.08,
21 F.S.; conforming provisions; creating s. 287.135, F.S.;
22 requiring public employer participation in a specified
23 federal program to verify the work authorization status of
24 newly hired employees; requiring participation in the
25 program by contractors and subcontractors; providing that
26 the discharge of any United States citizen or permanent
27 resident alien employee by an employer in this state, who,
28 on the date of the discharge employed an unauthorized

29 alien is an unfair trade practice under specified
 30 provisions; providing a civil remedy; creating s. 409.954,
 31 F.S.; requiring verification of the lawful presence in the
 32 United States of persons over a specified age applying for
 33 certain public benefits; providing exceptions; providing
 34 for execution of affidavit of eligibility; providing for
 35 verification of affidavit under a specified federal
 36 program; providing for penalties for false affidavits;
 37 providing for variation of requirements; providing for
 38 adjudication of unique individual circumstances due to
 39 unusual hardship; prohibiting provision of public benefits
 40 in violation of specified provisions; providing for
 41 reports; creating s. 877.28, F.S.; prohibiting specified
 42 actions related to transporting or harboring illegal
 43 aliens; providing penalties; providing for a memorandum of
 44 understanding between this state and specified federal
 45 agencies concerning enforcement of specified federal laws;
 46 providing an effective date.

47

48 Be It Enacted by the Legislature of the State of Florida:

49

50 Section 1. This act may be cited as the "Florida Taxpayer
 51 and Citizen Protection Act of 2008."

52 Section 2. The Legislature finds that illegal immigration
 53 is causing economic hardship and lawlessness in this state and
 54 that illegal immigration is encouraged by public agencies within
 55 this state that provide public benefits without verifying
 56 immigration status. The Legislature further finds that illegal

57 immigrants have been harbored and sheltered in this state and
 58 encouraged to reside in this state through the issuance of
 59 identification cards that are issued without verifying
 60 immigration status, and that these practices impede and obstruct
 61 the enforcement of federal immigration law, undermine the
 62 security of our borders, and impermissibly restrict the
 63 privileges and immunities of the citizens of this state.
 64 Therefore, the Legislature declares that it is a compelling
 65 public interest of this state to discourage illegal immigration
 66 by requiring all agencies within this state to fully cooperate
 67 with federal immigration authorities in the enforcement of
 68 federal immigration laws. The Legislature also finds that other
 69 measures are necessary to ensure the integrity of various
 70 governmental programs and services.

71 Section 3. Section 111.076, Florida Statutes, is created
 72 to read:

73 111.076 Reporting of immigration status information.--

74 (1) Notwithstanding any other provision of law, no person
 75 or agency may prohibit or in any way restrict a public employee
 76 from doing any of the following with respect to information
 77 regarding the immigration status of any individual:

78 (a) Sending such information to, or requesting or
 79 receiving such information from, the United States Department of
 80 Homeland Security;

81 (b) Maintaining such information; or

82 (c) Exchanging such information with any other federal,
 83 state, or local governmental entity.

84 (2) A natural or legal person lawfully domiciled in this

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85 state to may obtain a writ of mandamus to compel any
 86 noncooperating local state governmental agency to comply with
 87 such reporting laws.

88 Section 4. Section 125.582, Florida Statutes, is created
 89 to read:

90 125.582 Communicating or cooperating with federal
 91 officials concerning immigration.--

92 (1) No county government, whether acting through its
 93 governing body or by an initiative, referendum, or any other
 94 process shall enact any ordinance or policy that limits or
 95 prohibits a law enforcement officer, local official, or local
 96 government employee from communicating or cooperating with
 97 federal officials with regard to the immigration status of any
 98 person within this state.

99 (2) Notwithstanding any other provision of law, no county
 100 governmental entity or official may prohibit or in any way
 101 restrict any governmental entity or official from sending to, or
 102 receiving from, the United States Department of Homeland
 103 Security information regarding the citizenship or immigration
 104 status of any individual.

105 Section 5. Section 166.04935, Florida Statutes, is created
 106 to read:

107 166.04935 Communicating or cooperating with federal
 108 officials concerning immigration.--

109 (1) No municipal government, whether acting through its
 110 governing body or by an initiative, referendum, or any other
 111 process shall enact any ordinance or policy that limits or
 112 prohibits a law enforcement officer, local official, or local

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113 government employee from communicating or cooperating with
114 federal officials with regard to the immigration status of any
115 person within this state.

116 (2) Notwithstanding any other provision of law, no
117 municipal governmental entity or official may prohibit or in any
118 way restrict any governmental entity or official from sending
119 to, or receiving from, the United States Department of Homeland
120 Security information regarding the citizenship or immigration
121 status of any individual.

122 Section 6. Subsection (13) is added to section 316.193,
123 Florida Statutes, to read:

124 316.193 Driving under the influence; penalties.--

125 (13) (a) When a person charged under this section is
126 confined for any period in a jail or other detention center or
127 facility, a reasonable effort shall be made to determine the
128 citizenship status of that person.

129 (b) If the prisoner is a foreign national, the entity
130 confining the person shall make a reasonable effort to verify
131 that the prisoner has been lawfully admitted to the United
132 States and, if lawfully admitted, that such lawful status has
133 not expired. If verification of lawful status cannot be made
134 from documents in the possession of the prisoner, verification
135 shall be made within 48 hours of the beginning of the
136 confinement in paragraph (a) through a query to the United
137 States Department of Homeland Security. If the prisoner is
138 determined not to be lawfully admitted to the United States, the
139 entity holding the prisoner shall notify the United States
140 Department of Homeland Security.

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141 (c) For the purpose of determining the grant of or
142 issuance of bond, a person whose citizenship status has been
143 verified pursuant to paragraph (b) to be a foreign national who
144 has not been lawfully admitted to the United States shall be
145 deemed to be a risk of flight.

146 (d) The Department of Law Enforcement has authority to
147 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
148 the provisions of this subsection.

149 Section 7. Subsections (9) and (10) of section 327.35,
150 Florida Statutes, are renumbered as subsections (10) and (11),
151 respectively, and a new subsection (9) is added to that section
152 to read:

153 327.35 Boating under the influence; penalties; "designated
154 drivers".--

155 (9) (a) When a person charged under this section is
156 confined for any period in a jail or other detention center or
157 facility, a reasonable effort shall be made to determine the
158 citizenship status of that person.

159 (b) If the prisoner is a foreign national, the entity
160 confining the person shall make a reasonable effort to verify
161 that the prisoner has been lawfully admitted to the United
162 States and, if lawfully admitted, that such lawful status has
163 not expired. If verification of lawful status cannot be made
164 from documents in the possession of the prisoner, verification
165 shall be made within 48 hours of the beginning of the
166 confinement in paragraph (a) through a query to the United
167 States Department of Homeland Security. If the prisoner is
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172 issuance of bond, a person whose citizenship status has been
173 verified pursuant to paragraph (b) to be a foreign national who
174 has not been lawfully admitted to the United States shall be
175 deemed to be a risk of flight.

176 (d) The Department of Law Enforcement has authority to
177 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
178 the provisions of this subsection.

179 Section 8. Section 322.0516, Florida Statutes, is created
180 to read:

181 322.0516 Eligibility for driver's licenses or
182 identification cards.--

183 (1) All driver's licenses or identification cards provided
184 for under this chapter shall be issued only to United States
185 citizens, legal permanent resident aliens, or holders of valid
186 unexpired nonimmigrant visas.

187 (2) (a) The provisions of subsection (1) shall not apply
188 when an applicant presents, in person, valid documentary
189 evidence provided in s. 322.08(2)(c)4.-7.

190 (b) A driver's license or identification card issued under
191 the exemption in paragraph (a) shall be valid only during the
192 period of time of the authorized stay of the applicant in the
193 United States or, if there is no definite end to the period of
194 authorized stay, a period of 1 year. A driver's license or
195 identification card issued under this subsection shall clearly
196 indicate that it is temporary and shall state the date that it

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197 expires. Such a driver's license or identification card may be
198 renewed only upon presentation of valid documentary evidence
199 that the status by which the applicant qualified for the
200 identification document has been extended by the United States
201 Department of Homeland Security.

202 (3) Any driver's license or identification card for which
203 an application has been made for renewal, duplication, or
204 reissuance shall be presumed to have been issued in accordance
205 with the provisions of subsection (2) provided that, at the time
206 the application is made, the driver's license or identification
207 card has not expired or been canceled, suspended, or revoked.
208 The requirements of subsection (2) shall apply, however, to a
209 renewal, duplication, or reissuance if the department is
210 notified by a local, state, or federal governmental agency that
211 the individual seeking such renewal, duplication, or reissuance
212 is neither a citizen of the United States nor legally in the
213 United States.

214 Section 9. Paragraph (c) of subsection (2) of section
215 322.08, Florida Statutes, is amended to read:

216 322.08 Application for license.--

217 (2) Each such application shall include the following
218 information regarding the applicant:

219 (c) Proof of identity satisfactory to the department. Such
220 proof must include one of the following documents issued to the
221 applicant:

222 1. A driver's license record or identification card record
223 from another jurisdiction that required the applicant to submit
224 a document for identification which is substantially similar to

225 a document required under subparagraph 2., subparagraph 3.,
 226 subparagraph 4., subparagraph 5., subparagraph 6., or
 227 subparagraph 7.;

228 2. A certified copy of a United States birth certificate;
 229 3. A United States passport;
 230 4. A naturalization certificate issued by the United
 231 States Department of Homeland Security;
 232 5. An alien registration receipt card (green card);
 233 6. An employment authorization card issued by the United
 234 States Department of Homeland Security; or
 235 7. Proof of nonimmigrant classification provided by the
 236 United States Department of Homeland Security, for an original
 237 driver's license. In order to prove nonimmigrant classification,
 238 an applicant may produce the following documents, including, but
 239 not limited to:

240 a. A notice of hearing from an immigration court
 241 scheduling a hearing on any proceeding.
 242 b. A notice from the Board of Immigration Appeals
 243 acknowledging pendency of an appeal.
 244 c. A notice of the approval of an application for
 245 adjustment of status issued by the United States Bureau of
 246 Citizenship and Immigration Services.
 247 d. Any official documentation confirming the filing of a
 248 petition for asylum or refugee status or any other relief issued
 249 by the United States Bureau of Citizenship and Immigration
 250 Services.

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251 e. A notice of action transferring any pending matter from
 252 another jurisdiction to this state issued by the United States
 253 Bureau of Citizenship and Immigration Services.

254 f. An order of an immigration judge or immigration officer
 255 granting any relief that authorizes the alien to live and work
 256 in the United States, including, but not limited to, asylum.

257 g. Evidence that an application is pending for adjustment
 258 of status to that of an alien lawfully admitted for permanent
 259 residence in the United States or conditional permanent resident
 260 status in the United States, if a visa number is available
 261 having a current priority date for processing by the United
 262 States Bureau of Citizenship and Immigration Services.

263
 264 ~~Presentation of any of the documents in subparagraph 6. or~~
 265 ~~subparagraph 7. entitles the applicant to a driver's license or~~
 266 ~~temporary permit for a period not to exceed the expiration date~~
 267 ~~of the document presented or 1 year, whichever occurs first.~~

268 Section 10. Section 287.135, Florida Statutes, is created
 269 to read:

270 287.135 Verification of immigration status; public
 271 employers.--

272 (1) As used in the section, the term:

273 (a) "Basic Pilot Program" means the electronic
 274 verification of work authorization program of the Illegal
 275 Immigration Reform and Immigration Responsibility Act of 1996,
 276 Pub. L. No. 104-208, Division C, Title IV, s. 403(a), as
 277 amended, and operated by the United States Department of
 278 Homeland Security or any equivalent federal work authorization

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279 program operated by the United States Department of Homeland
280 Security or any other designated federal agency authorized to
281 verify the work authorization status of newly hired employees
282 pursuant to the Immigration Reform and Control Act of 1986, Pub.
283 L. No. 99-603.

284 (b) "Public employer" means any department, agency, or
285 instrumentality of the state or any political subdivision of the
286 state.

287 (c) "Subcontractor" includes any subcontractor, contract
288 employee, staffing agency, or contractor of any such
289 subcontractor, contract employee, or staffing agency, regardless
290 of tier.

291 (2) (a) Every public employer shall register and
292 participate in the Basic Pilot Program to verify the work
293 authorization status of all new employees.

294 (b)1. No public employer shall enter into a contract for
295 the physical performance of services within this state unless
296 the contractor registers and participates in the Basic Pilot
297 Program to verify the work authorization status of all new
298 employees.

299 2. No contractor or subcontractor who enters a contract
300 with a public employer shall enter into such a contract or
301 subcontract in connection with the physical performance of
302 services within this state unless the contractor or
303 subcontractor registers and participates in the Basic Pilot
304 Program to verify information of all new employees.

305 3. The discharge of any United States citizen or permanent
306 resident alien employee by an employer in this state who, on the

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307 date of the discharge, employed an unauthorized alien
308 constitutes an unfair trade practice under part II of chapter
309 501, and the discharged employee shall have a private cause of
310 action under that part.

311 (c) The provisions of this section shall be enforced
312 without regard to race or national origin.

313 Section 11. Section 409.954, Florida Statutes, is created
314 to read:

315 409.954 Verification of immigration status for public
316 benefits.--

317 (1) Except as provided in subsection (3) or where exempted
318 by federal law, each agency and political subdivision of this
319 state shall verify the lawful presence in the United States of
320 any natural person 14 years of age or older who has applied for
321 state or local public benefits as defined in 8 U.S.C. s. 1621 or
322 for federal public benefits as defined in 8 U.S.C. s. 1611 that
323 are administered by an agency or a political subdivision of this
324 state.

325 (2) The provisions of this section shall be enforced
326 without regard to race, religion, gender, ethnicity, or national
327 origin.

328 (3) Verification of lawful presence in the United States
329 under the provisions of this section shall not be required:

330 (a) For any purpose for which lawful presence in the
331 United States is not restricted by law, ordinance, or
332 regulation;

333 (b) For assistance for health care items and services that
334 are necessary for the treatment of an emergency medical

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335 condition, as defined in 42 U.S.C. s. 1396b(v)(3), of the alien
336 involved and are not related to an organ transplant procedure;

337 (c) For short-term, noncash, in-kind emergency disaster
338 relief;

339 (d) For public health assistance for immunizations with
340 respect to diseases and for testing and treatment of symptoms of
341 communicable diseases, whether or not such symptoms are caused
342 by a communicable disease;

343 (e) For programs, services, or assistance such as soup
344 kitchens, crisis counseling and intervention, and short-term
345 shelter specified by the United States Attorney General, in the
346 sole and unreviewable discretion of the United States Attorney
347 General after consultation with appropriate federal agencies and
348 departments, which:

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

351 2. Do not condition the provision of assistance, the
352 amount of assistance provided, or the cost of assistance
353 provided on the income or resources of the individual recipient;
354 and

355 3. Are necessary for the protection of life or safety; or
356 (f) For prenatal care.

357 (4) Verification of lawful presence in the United States
358 by the agency or political subdivision required to make such
359 verification shall require that the applicant execute an
360 affidavit under penalty of perjury that:

361 (a) He or she is a United States citizen; or

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362 (b) He or she is a qualified alien under the Immigration
363 and Nationality Act, 8 U.S.C. ss. 1101 et seq., and is lawfully
364 present in the United States.

365 (5) For any applicant who has executed the affidavit
366 described in paragraph (4)(b), eligibility for benefits shall be
367 made through the Systematic Alien Verification of Entitlement
368 program operated by the United States Department of Homeland
369 Security or a successor program designated by that department.
370 Until such eligibility verification is made, the affidavit may
371 be presumed to be proof of lawful presence for the purposes of
372 this section.

373 (6) Any person who knowingly and willfully makes a false,
374 fictitious, or fraudulent statement or representation in an
375 affidavit executed pursuant to subsection (4) shall be subject
376 to criminal penalties applicable in this state for fraudulently
377 obtaining public assistance program benefits. If the affidavit
378 constitutes a false claim of United States citizenship under 18
379 U.S.C. s. 911, a complaint shall be filed by the agency
380 requiring the affidavit with the appropriate United States
381 Attorney.

382 (7) Any agency or political subdivision of this state may
383 adopt variations to the requirements of this section that
384 demonstrably improve the efficiency or reduce delay in the
385 verification process, or to provide for adjudication of unique
386 individual circumstances where the verification procedures in
387 this section would impose unusual hardship on a legal resident
388 of this state.

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389 (8) No agency or political subdivision of this state shall
 390 provide any state, local, or federal benefit, as defined in 8
 391 U.S.C. s. 1611 or 8 U.S.C. s. 1621, in violation of this
 392 section.

393 (9) Each state agency or department that administers any
 394 program of state or local public benefits shall provide an
 395 annual report to the Secretary of Children and Family Services
 396 with respect to its compliance with the provisions of this
 397 section. Any and all errors shall be reported to the United
 398 States Department of Homeland Security by the Secretary of
 399 Children and Family Services. The secretary shall monitor the
 400 eligibility verification program used under subsection (5) and
 401 any verification application errors and significant delays of
 402 the program and each October 1 shall provide a report to the
 403 Governor, the President of the Senate, and the Speaker of the
 404 House of Representatives on the errors and significant delays
 405 and make recommendations to ensure that the application of the
 406 program is not erroneously denying benefits to legal residents
 407 of this state.

408 Section 12. Section 877.28, Florida Statutes, is created
 409 to read:

410 877.28 Illegal aliens; offenses concerning.--

411 (1) It shall be unlawful for any person to:

412 (a) Transport, move, or attempt to transport within the
 413 United States any alien knowing or in reckless disregard of the
 414 fact that the alien has come to, entered, or remained in the
 415 United States in violation of law in furtherance of the illegal
 416 presence of the alien in the United States.

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417 (b) Conceal, harbor, or shelter from detection any alien
418 in any place, including any building or means of transportation,
419 knowing or in reckless disregard of the fact that the alien has
420 come to, entered, or remained in the United States in violation
421 of law.

422 (2) Any person violating the provisions of this section
423 commits a misdemeanor of the first degree, punishable as
424 provided in s. 775.082 or s. 775.083.

425 Section 13. The Attorney General is authorized and
426 directed to negotiate the terms of a memorandum of understanding
427 between this state and the United States Department of Justice
428 or the United States Department of Homeland Security concerning
429 the enforcement of federal immigration and custom laws,
430 detention and removals, and investigations in this state. The
431 memorandum of understanding shall be signed on behalf of this
432 state by the Attorney General and the Governor or as otherwise
433 required by the appropriate federal agency.

434 Section 14. This act shall take effect October 1, 2008.