

1                   A bill to be entitled  
2           An act relating to illegal immigration; providing a short  
3           title; providing definitions; requiring law enforcement  
4           officers, sheriffs, chiefs of police, chief correctional  
5           officers, and clerks of the circuit court to report to the  
6           Immigration and Customs Enforcement office of the United  
7           States Department of Homeland Security suspected illegal  
8           aliens who are arrested, detained, or convicted of a  
9           felony; providing a penalty for willful and knowing  
10          failure to make such report; requiring law enforcement  
11          agencies to provide written notice to each law enforcement  
12          officer of the officer's duty to cooperate with federal  
13          officials in the enforcement of federal immigration laws;  
14          requiring the Office of the Attorney General, the  
15          Department of Law Enforcement, and all state and local law  
16          enforcement agencies to vigorously pursue all  
17          opportunities to collect federal funds to which the state  
18          may be entitled for the reimbursement of moneys spent to  
19          enforce federal immigration laws; creating s. 111.076,  
20          F.S.; prohibiting restrictions on the reporting of certain  
21          immigration status information by public employees;  
22          providing for a writ of mandamus to compel compliance with  
23          certain laws; creating ss. 125.582 and 166.04935, F.S.;

24          prohibiting certain local government restrictions  
25          concerning communication or cooperation with federal  
26          officials concerning immigration law enforcement; amending  
27          ss. 316.193 and 327.35, F.S.; requiring verification of  
28          the immigration status of certain persons confined for

29 driving under the influence or boating under the  
 30 influence; creating s. 409.954, F.S.; requiring  
 31 verification of the lawful presence in the United States  
 32 of persons over a specified age applying for certain  
 33 public benefits; providing exceptions; providing for  
 34 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. 448.095, F.S.; defining "worker  
 42 center" or "day-labor worker center"; prohibiting a county  
 43 or municipality from constructing, establishing,  
 44 maintaining, or operating, or providing funding,  
 45 resources, or assistance to, a worker center or day-labor  
 46 worker center that knowingly facilitates the illegal  
 47 hiring, recruiting, or referral of unauthorized aliens;  
 48 providing an effective date.

49  
 50 Be It Enacted by the Legislature of the State of Florida:

51  
 52 Section 1. This act may be cited as the "Florida Safe  
 53 Borders Act of 2008."

54 Section 2. Illegal aliens; reporting to federal  
 55 officials.--

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

HB 821

2008

57 (a) "County or municipal detention facility" has the same  
58 meaning as in s. 951.23, Florida Statutes.

59 (b) "Law enforcement officer" has the same meaning as in  
60 s. 943.10, Florida Statutes.

61 (c) "Law enforcement agency" means any agency or unit of  
62 government which has authority to employ or appoint law  
63 enforcement officers.

64 (2) (a) If a law enforcement officer has probable cause to  
65 believe that a person arrested for a felony offense is not  
66 legally present in the United States, the officer shall report  
67 that person to the Immigration and Customs Enforcement office of  
68 the United States Department of Homeland Security.

69 (b) If a person arrested for a felony offense is detained  
70 in a county or municipal detention facility and the sheriff, the  
71 chief of police, or the chief correctional officer of the  
72 detention facility reasonably believes that the person is not  
73 legally present in the United States, the sheriff, the chief of  
74 police, or the chief correctional officer shall report that  
75 person to the Immigration and Customs Enforcement office of the  
76 United States Department of Homeland Security.

77 (c) A judge of the circuit court shall direct the clerk of  
78 the circuit court to notify the Immigration and Customs  
79 Enforcement office of the United States Department of Homeland  
80 Security when a suspected illegal alien has been convicted of or  
81 pled guilty to a felony.

82  
83 A willful and knowing violation of paragraph (a), paragraph (b),  
84 or paragraph (c) or a willful and knowing failure to make a

HB 821

2008

85 report or notification required under paragraph (a), paragraph  
86 (b), or paragraph (c) is a misdemeanor of the second degree,  
87 punishable as provided in s. 775.082 or s. 775.083.

88 (3) (a) Each law enforcement agency shall provide written  
89 notice to its law enforcement officers of each officer's duty to  
90 cooperate with federal officials in the enforcement of federal  
91 laws governing immigration.

92 (b) Each law enforcement agency shall provide written  
93 confirmation to the Department of Law Enforcement by March 1 of  
94 each year that it has provided the notice required under  
95 paragraph (a) to each officer employed by the agency.

96 (4) The Office of the Attorney General, the Department of  
97 Law Enforcement, and all state and local law enforcement  
98 agencies shall vigorously pursue all opportunities to collect  
99 all federal funds to which the state may be entitled for the  
100 reimbursement of moneys spent to enforce federal immigration  
101 laws.

102 Section 3. Section 111.076, Florida Statutes, is created  
103 to read:

104 111.076 Reporting of immigration status information.--

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

109 (a) Sending such information to, or requesting or  
110 receiving such information from, the United States Department of  
111 Homeland Security;

112 (b) Maintaining such information; or

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

115 (2) A natural or legal person lawfully domiciled in this  
 116 state may obtain a writ of mandamus to compel any noncooperating  
 117 local state governmental agency to comply with such reporting  
 118 laws.

119 Section 4. Section 125.582, Florida Statutes, is created  
 120 to read:

121 125.582 Communicating or cooperating with federal  
 122 officials concerning immigration.--

123 (1) No county government, whether acting through its  
 124 governing body or by an initiative, referendum, or any other  
 125 process shall enact any ordinance or policy that limits or  
 126 prohibits a law enforcement officer, local official, or local  
 127 government employee from communicating or cooperating with  
 128 federal officials with regard to the immigration status of any  
 129 person within this state.

130 (2) Notwithstanding any other provision of law, no county  
 131 governmental entity or official may prohibit or in any way  
 132 restrict any governmental entity or official from sending to, or  
 133 receiving from, the United States Department of Homeland  
 134 Security information regarding the citizenship or immigration  
 135 status of any individual.

136 Section 5. Section 166.04935, Florida Statutes, is created  
 137 to read:

138 166.04935 Communicating or cooperating with federal  
 139 officials concerning immigration.--

140 (1) No municipal government, whether acting through its

141 governing body or by an initiative, referendum, or any other  
 142 process shall enact any ordinance or policy that limits or  
 143 prohibits a law enforcement officer, local official, or local  
 144 government employee from communicating or cooperating with  
 145 federal officials with regard to the immigration status of any  
 146 person within this state.

147 (2) Notwithstanding any other provision of law, no  
 148 municipal governmental entity or official may prohibit or in any  
 149 way restrict any governmental entity or official from sending  
 150 to, or receiving from, the United States Department of Homeland  
 151 Security information regarding the citizenship or immigration  
 152 status of any individual.

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

155 316.193 Driving under the influence; penalties.--

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

160 (b) If the prisoner is a foreign national, the entity  
 161 confining the person shall make a reasonable effort to verify  
 162 that the prisoner has been lawfully admitted to the United  
 163 States and, if lawfully admitted, that such lawful status has  
 164 not expired. If verification of lawful status cannot be made  
 165 from documents in the possession of the prisoner, verification  
 166 shall be made within 48 hours of the beginning of the  
 167 confinement in paragraph (a) through a query to the United  
 168 States Department of Homeland Security. If the prisoner is

169 determined not to be lawfully admitted to the United States, the  
 170 entity holding the prisoner shall notify the United States  
 171 Department of Homeland Security.

172 (c) For the purpose of determining the grant of or  
 173 issuance of bond, a person whose citizenship status has been  
 174 verified pursuant to paragraph (b) to be a foreign national who  
 175 has not been lawfully admitted to the United States shall be  
 176 deemed to be a risk of flight.

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

180 Section 7. Subsections (9) and (10) of section 327.35,  
 181 Florida Statutes, are renumbered as subsections (10) and (11),  
 182 respectively, and a new subsection (9) is added to that section  
 183 to read:

184 327.35 Boating under the influence; penalties; "designated  
 185 drivers".--

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

190 (b) If the prisoner is a foreign national, the entity  
 191 confining the person shall make a reasonable effort to verify  
 192 that the prisoner has been lawfully admitted to the United  
 193 States and, if lawfully admitted, that such lawful status has  
 194 not expired. If verification of lawful status cannot be made  
 195 from documents in the possession of the prisoner, verification  
 196 shall be made within 48 hours of the beginning of the

197 confinement in paragraph (a) through a query to the United  
 198 States Department of Homeland Security. If the prisoner is  
 199 determined not to be lawfully admitted to the United States, the  
 200 entity holding the prisoner shall notify the United States  
 201 Department of Homeland Security.

202 (c) For the purpose of determining the grant of or  
 203 issuance of bond, a person whose citizenship status has been  
 204 verified pursuant to paragraph (b) to be a foreign national who  
 205 has not been lawfully admitted to the United States shall be  
 206 deemed to be a risk of flight.

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

210 Section 8. Section 409.954, Florida Statutes, is created  
 211 to read:

212 409.954 Verification of immigration status for public  
 213 benefits.--

214 (1) Except as provided in subsection (3) or where exempted  
 215 by federal law, each agency and political subdivision of this  
 216 state shall verify the lawful presence in the United States of  
 217 any natural person 14 years of age or older who has applied for  
 218 state or local public benefits as defined in 8 U.S.C. s. 1621 or  
 219 for federal public benefits as defined in 8 U.S.C. s. 1611 that  
 220 are administered by an agency or a political subdivision of this  
 221 state.

222 (2) The provisions of this section shall be enforced  
 223 without regard to race, religion, gender, ethnicity, or national  
 224 origin.

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

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

230 (b) For assistance for health care items and services that  
 231 are necessary for the treatment of an emergency medical  
 232 condition, as defined in 42 U.S.C. s. 1396b(v)(3), of the alien  
 233 involved and are not related to an organ transplant procedure;

234 (c) For short-term, noncash, in-kind emergency disaster  
 235 relief;

236 (d) For public health assistance for immunizations with  
 237 respect to diseases and for testing and treatment of symptoms of  
 238 communicable diseases, whether or not such symptoms are caused  
 239 by a communicable disease;

240 (e) For programs, services, or assistance such as soup  
 241 kitchens, crisis counseling and intervention, and short-term  
 242 shelter specified by the United States Attorney General, in the  
 243 sole and unreviewable discretion of the United States Attorney  
 244 General after consultation with appropriate federal agencies and  
 245 departments, which:

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

248 2. Do not condition the provision of assistance, the  
 249 amount of assistance provided, or the cost of assistance  
 250 provided on the income or resources of the individual recipient;  
 251 and

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

HB 821

2008

253 (f) For prenatal care.

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

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

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

262 (5) For any applicant who has executed the affidavit  
263 described in paragraph (4)(b), eligibility for benefits shall be  
264 made through the Systematic Alien Verification of Entitlement  
265 program operated by the United States Department of Homeland  
266 Security or a successor program designated by that department.  
267 Until such eligibility verification is made, the affidavit may  
268 be presumed to be proof of lawful presence for the purposes of  
269 this section.

270 (6) Any person who knowingly and willfully makes a false,  
271 fictitious, or fraudulent statement or representation in an  
272 affidavit executed pursuant to subsection (4) shall be subject  
273 to criminal penalties applicable in this state for fraudulently  
274 obtaining public assistance program benefits. If the affidavit  
275 constitutes a false claim of United States citizenship under 18  
276 U.S.C. s. 911, a complaint shall be filed by the agency  
277 requiring the affidavit with the appropriate United States  
278 Attorney.

279 (7) Any agency or political subdivision of this state may  
280 adopt variations to the requirements of this section that

HB 821

2008

281 demonstrably improve the efficiency or reduce delay in the  
282 verification process, or to provide for adjudication of unique  
283 individual circumstances where the verification procedures in  
284 this section would impose unusual hardship on a legal resident  
285 of this state.

286 (8) No agency or political subdivision of this state shall  
287 provide any state, local, or federal benefit, as defined in 8  
288 U.S.C. s. 1611 or 8 U.S.C. s. 1621, in violation of this  
289 section.

290 (9) Each state agency or department that administers any  
291 program of state or local public benefits shall provide an  
292 annual report to the Secretary of Children and Family Services  
293 with respect to its compliance with the provisions of this  
294 section. Any and all errors shall be reported to the United  
295 States Department of Homeland Security by the Secretary of  
296 Children and Family Services. The secretary shall monitor the  
297 eligibility verification program used under subsection (5) and  
298 any verification application errors and significant delays of  
299 the program and each October 1 shall provide a report to the  
300 Governor, the President of the Senate, and the Speaker of the  
301 House of Representatives on the errors and significant delays  
302 and make recommendations to ensure that the application of the  
303 program is not erroneously denying benefits to legal residents  
304 of this state.

305 Section 9. Section 448.095, Florida Statutes, is created  
306 to read:

307 448.095 County and municipal worker centers or day-labor  
 308 worker centers; unauthorized aliens; prohibited operation and  
 309 funding.--

310 (1) "Worker center" or "day-labor worker center" means any  
 311 structure, office, site, or location organized and operated by a  
 312 county or municipality , or organized and operated by a county  
 313 or municipality in partnership with a community organization,  
 314 church or other faith-based organization, law enforcement  
 315 agency, local business or businesses, labor union, or other  
 316 organization, whether or not the county or municipality assumes  
 317 the responsibilities of lead partner, which functions as a labor  
 318 pool, labor hall, or hiring hall at which workers assemble and  
 319 can arrange for employment, from which workers are dispatched,  
 320 and which provides basic accommodations and core regulations for  
 321 workers and employers that include, but are not limited to:

322 (a) A defined space for workers to assemble.

323 (b) A job allocation system that imposes order or a hiring  
 324 queue on the labor hiring process.

325 (c) A required system of registration whereby job seekers  
 326 and employers register with worker center staff.

327 (d) Fixed minimum wage rates.

328 (e) Required monitoring of labor standards, employer  
 329 behavior, and work quality.

330 (2) No county or municipality shall construct, establish,  
 331 maintain, or operate, or provide any resources, revenue, funds,  
 332 or assistance of any kind to, a worker center or day-labor  
 333 worker center as defined in subsection (1) when the center or  
 334 any part thereof knowingly facilitates or knowingly intends to

HB 821

2008

335 facilitate a violation of s. 448.09 by hiring, recruiting, or  
336 referring, on behalf of the center or on behalf of another, for  
337 private or public employment within the state, an alien who is  
338 not duly authorized to work under federal immigration laws or by  
339 the United States Attorney General.

340 Section 10. This act shall take effect October 1, 2008.