

1 A bill to be entitled
2 An act relating to enforcement of immigration laws;
3 providing a short title; creating s. 287.0575, F.S.;
4 providing definitions; prohibiting agencies from entering
5 into a contract for contractual services with contractors
6 not registered and participating in a federal work
7 authorization program by a specified date; providing
8 procedures and requirements with respect to the
9 registration of contractors and subcontractors; providing
10 for enforcement; providing a schedule for phased
11 compliance; requiring the Department of Management
12 Services to adopt rules; creating s. 337.163, F.S.;
13 providing definitions; prohibiting the Department of
14 Transportation from entering into a contract for
15 contractual services with contractors not registered and
16 participating in a federal work authorization program by a
17 specified date; providing procedures and requirements with
18 respect to the registration of contractors and
19 subcontractors; providing for enforcement; providing a
20 schedule for phased compliance; requiring the department
21 to adopt rules; amending s. 943.0311, F.S.; requiring the
22 Chief of Domestic Security to negotiate the terms of a
23 memorandum of understanding between the state and certain
24 Federal Government entities concerning the enforcement of
25 federal immigration and customs laws, the detention and
26 removal of individuals not lawfully present in the United
27 States, investigations related to illegal immigration in
28 the state, the establishment of specified law enforcement

29 training standards, and the creation of specified law
30 enforcement training programs; providing for the
31 establishment of law enforcement training standards and
32 the creation of training programs contingent upon federal
33 funding; providing that law enforcement officers trained
34 in accordance with such standards are authorized to
35 enforce federal immigration and customs laws while
36 performing within the scope of their authorized duties;
37 creating s. 951.30, F.S.; providing requirements and
38 procedures with respect to the determination of lawful
39 immigration status of persons charged with a crime and
40 confined to a county or municipal detention facility;
41 providing construction; requiring the Florida Sheriffs
42 Association to prepare and issue specified guidelines and
43 procedures; creating pt. IV of chapter 23, F.S.; requiring
44 agencies to verify the lawful presence in the United
45 States of any natural person 18 years of age or older who
46 has applied for state or local public benefits, or for
47 federal public benefits, that are administered by an
48 agency by a specified date; providing for enforcement;
49 providing exceptions; requiring the Board of Governors of
50 the State University System to set forth policies
51 regarding postsecondary education benefits; providing
52 procedures and requirements with respect to verification
53 of lawful presence in the United States by an agency;
54 providing a penalty for knowingly and willfully making a
55 false, fictitious, or fraudulent statement or
56 representation in an affidavit attesting to citizenship or

57 permanent legal residency; providing procedure with
 58 respect to verification of eligibility for benefits;
 59 prohibiting any agency from providing any state, local, or
 60 federal benefit in violation of the requirements of the
 61 section; providing for specified annual reports; providing
 62 effective dates.

63
 64 Be It Enacted by the Legislature of the State of Florida:

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 66 Section 1. This act may be cited as the "Florida Security
 67 and Immigration Compliance Act."

68 Section 2. Section 287.0575, Florida Statutes, is created
 69 to read:

70 287.0575 Compliance with federal work authorization
 71 programs.--

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

73 (a) "Federal work authorization program" means any program
 74 operated by the United States Department of Homeland Security
 75 that provides electronic verification of work authorization
 76 issued by the United States Citizenship and Immigration Services
 77 or any equivalent federal work authorization program operated by
 78 the United States Department of Homeland Security that provides
 79 for the verification of information regarding newly hired
 80 employees under the Immigration Reform and Control Act of 1986,
 81 Pub. L. No. 99-603.

82 (b) "Subcontractor" means a person who enters into a
 83 contract with a contractor for the performance of any part of
 84 such contractor's contract.

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85 (2) An agency may not enter into a contract under s.
86 287.057 for contractual services unless the contractor registers
87 and participates in a federal work authorization program.

88 (3) A contractor who receives a contract award under s.
89 287.057 for contractual services may not execute a contract,
90 purchase order, or subcontract in connection with the award
91 unless the contractor and all subcontractors providing services
92 for the contractor register and participate in a federal work
93 authorization program. The contractor shall certify in writing
94 to the agency that it is in compliance with this subsection.

95 (4) A contractor shall ensure that each subcontractor
96 providing services for the contractor registers and participates
97 in a federal work authorization program. Each subcontractor
98 shall certify in writing to the contractor that it is in
99 compliance with this subsection.

100 (5) Subsections (2), (3), and (4) shall apply as follows:

101 (a) On or after July 1, 2010, with respect to contractors
102 or subcontractors employing 500 or more employees.

103 (b) On or after July 1, 2011, with respect to contractors
104 or subcontractors employing 100 or more employees.

105 (c) On or after July 1, 2012, with respect to all
106 contractors or subcontractors.

107 (6) This section shall be enforced without regard to race,
108 religion, gender, ethnicity, or national origin.

109 (7) The department shall adopt rules deemed necessary to
110 administer this section, including prescribing forms.

111 Section 3. Section 337.163, Florida Statutes, is created
112 to read:

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113 337.163 Compliance with federal work authorization

114 program.--

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

116 (a) "Federal work authorization program" means any program
117 operated by the United States Department of Homeland Security
118 that provides electronic verification of work authorization
119 issued by the United States Citizenship and Immigration Services
120 or any equivalent federal work authorization program operated by
121 the United States Department of Homeland Security that provides
122 for the verification of information regarding newly hired
123 employees under the Immigration Reform and Control Act of 1986,
124 Pub. L. No. 99-603.

125 (b) "Subcontractor" means a person who enters into a
126 contract with a contractor for the performance of any part of
127 such contractor's contract.

128 (2) The department may not enter into a contract under
129 this chapter for contractual services unless the contractor
130 registers and participates in a federal work authorization
131 program.

132 (3) A contractor who receives a contract award under this
133 chapter for contractual services may not execute a contract,
134 purchase order, or subcontract in connection with the award
135 unless the contractor and all subcontractors providing services
136 for the contractor register and participate in a federal work
137 authorization program. The contractor shall certify in writing
138 to the department that it is in compliance with this subsection.

139 (4) A contractor shall ensure that each subcontractor
140 providing services for the contractor registers and participates

141 in a federal work authorization program. Each subcontractor
 142 shall certify in writing to the contractor that it is in
 143 compliance with this subsection.

144 (5) Subsections (2), (3), and (4) shall apply as follows:

145 (a) On or after July 1, 2010, with respect to contractors
 146 or subcontractors employing 500 or more employees.

147 (b) On or after July 1, 2011, with respect to contractors
 148 or subcontractors employing 100 or more employees.

149 (c) On or after July 1, 2012, with respect to all
 150 contractors or subcontractors.

151 (6) This section shall be enforced without regard to race,
 152 religion, gender, ethnicity, or national origin.

153 (7) The department shall adopt rules deemed necessary to
 154 administer this section, including prescribing forms.

155 Section 4. Subsection (8) is added to section 943.0311,
 156 Florida Statutes, and, effective if funding under the federal
 157 Homeland Security Appropriation Act of 2009 or any subsequent
 158 source of federal funding is provided to fund the provisions of
 159 the subsection, subsection (9) is added to that section, to
 160 read:

161 943.0311 Chief of Domestic Security; duties of the
 162 department with respect to domestic security.--

163 (8) (a) The Chief of Domestic Security shall negotiate the
 164 terms of a memorandum of understanding between the State of
 165 Florida and the United States Department of Justice or the
 166 United States Department of Homeland Security concerning:

167 1. The enforcement of federal immigration and customs
 168 laws.

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

171 3. Investigations related to illegal immigration in the
172 state.

173 4. The establishment of law enforcement training standards
174 and the creation of law enforcement training programs as
175 provided in subsection (9).

176 (b) The memorandum of understanding shall be signed on
177 behalf of the state by the Chief of Domestic Security and the
178 Governor, or as otherwise required by the appropriate federal
179 agency.

180 (9) (a) Contingent upon funding in the federal Homeland
181 Security Appropriation Act of 2009 or any subsequent source of
182 federal funding, the Chief of Domestic Security shall work with
183 the regional domestic security task forces and the various state
184 entities responsible for establishing training standards
185 applicable to law enforcement officers to establish training
186 standards and create training programs the purpose of which is
187 to enhance the ability of law enforcement officers to enforce
188 federal immigration and customs laws while performing within the
189 scope of their authorized duties.

190 (b) A law enforcement officer, as defined in s. 943.10,
191 who is trained in accordance with the standards established
192 pursuant to this subsection is authorized to enforce federal
193 immigration and customs laws while performing within the scope
194 of his or her authorized duties.

195 Section 5. Section 951.30, Florida Statutes, is created to
196 read:

197 951.30 County and municipal detention facilities;
 198 determination of lawful immigration status.--

199 (1) If the lawful immigration status of any person who is
 200 charged with a crime and confined to a county or municipal
 201 detention facility for any period of time cannot be verified
 202 from documents in the possession of the county or municipal
 203 prisoner or after a reasonable effort on the part of law
 204 enforcement officials, such verification shall be made within 48
 205 hours through a query to the Law Enforcement Support Center
 206 (LESC) of the United States Department of Homeland Security or
 207 other office or agency designated for that purpose by the United
 208 States Department of Homeland Security. If it is determined that
 209 a county or municipal prisoner is in the United States
 210 unlawfully, the law enforcement agency shall notify the United
 211 States Department of Homeland Security.

212 (2) Nothing in this section shall be construed to deny
 213 bond to a person who is charged with a crime and confined to a
 214 county or municipal detention facility or prevent such person
 215 from being released from confinement if such person is otherwise
 216 eligible for release.

217 (3) The Florida Sheriffs Association shall prepare and
 218 issue guidelines and procedures for compliance with the
 219 provisions of this section.

220 Section 6. Part IV of chapter 23, Florida Statutes,
 221 consisting of section 23.40, is created to read:

222 PART IV

223 AGENCY ADMINISTRATION OF PUBLIC BENEFITS

224 23.40 Agency administration of public benefits;

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225 verification of lawful status.--

226 (1) Except as provided in subsection (3) or where exempted
227 by federal law, no later than July 1, 2010, every agency, as
228 defined in s. 20.03, shall verify the lawful presence in the
229 United States of any natural person 18 years of age or older who
230 has applied for state or local public benefits, as defined in 8
231 U.S.C. s. 1621, or for federal public benefits, as defined in 8
232 U.S.C. s. 1611, that are administered by the agency.

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

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

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

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

243 (c) Short-term, non-cash, in-kind emergency disaster
244 relief;

245 (d) Public health assistance for immunizations with
246 respect to immunizable diseases and for testing and treatment of
247 symptoms of communicable diseases whether or not such symptoms
248 are caused by a communicable disease;

249 (e) Programs, services, or assistance such as soup
250 kitchens, crisis counseling and intervention, and short-term
251 shelter specified by the United States Attorney General, in the
252 United States Attorney General's sole and unreviewable

253 discretion after consultation with appropriate federal agencies
254 and departments, which:

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

257 2. Do not condition the provision of assistance, the
258 amount of assistance provided, or the cost of assistance
259 provided on the individual recipient's income or resources; and

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

261 (f) Prenatal care; or

262 (g) Postsecondary education.

263 (4) The Board of Governors of the State University System
264 shall set forth, or cause to be set forth, policies regarding
265 postsecondary education benefits that comply with all applicable
266 federal laws, including, but not limited to, those governing
267 ineligibility for public benefits as described in 8 U.S.C. s.
268 1611, s. 1621, or s. 1623.

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

272 1. The applicant for benefits must execute an affidavit
273 stating that he or she is a United States citizen or a permanent
274 legal resident of the United States and is 18 years of age or
275 older; or

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

280 (b) Any person who knowingly and willfully makes a false,

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281 fictitious, or fraudulent statement or representation in an
282 affidavit executed pursuant to paragraph (a) commits a
283 misdemeanor of the first degree, punishable as provided in s.
284 775.082 or s. 775.083.

285 (6) For any applicant who has executed an affidavit
286 attesting to the fact that he or she is an alien lawfully
287 present in the United States, verification of an applicant's
288 immigration status shall be made through the Systematic Alien
289 Verification for Entitlements Program (SAVE) established by the
290 United States Citizenship and Immigration Services or a
291 successor program designated by the United States Department of
292 Homeland Security. Until such verification of eligibility is
293 made, the affidavit may be presumed to be proof of lawful
294 presence in the United States for the purposes of this section.

295 (7) In carrying out the provisions of this section,
296 agencies shall endeavor to improve efficiency, reduce delay in
297 the verification process, and provide for the expedient
298 resolution of unique individual circumstances where verification
299 procedures would impose an unusual hardship on a legal resident
300 of the state.

301 (8) (a) No agency shall provide any state, local, or
302 federal benefit, as defined in 8 U.S.C. s. 1611 or s. 1621, in
303 violation of this section.

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

307 (9) Any and all errors and significant delays by the
308 Systematic Alien Verification for Entitlements Program shall be

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309 reported to the United States Department of Homeland Security
310 and to the Secretary of State, who will monitor the program and
311 its verification application errors and significant delays and
312 report annually on such errors and significant delays to ensure
313 that the application of the program is not wrongfully denying
314 benefits to legal residents of the state.

315 (10) Notwithstanding subsection (5), any applicant for
316 federal benefits as defined in 8 U.S.C. s. 1611 or state or
317 local benefits as defined in 8 U.S.C. s. 1621 shall not be
318 guilty of any crime for executing an affidavit attesting to
319 lawful presence in the United States that contains a false
320 statement if such affidavit is not required by this section.

321 Section 7. Except as otherwise specifically provided in
322 this act, this act shall take effect July 1, 2009.