

By Senator Detert

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

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

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59 statement or representation in an affidavit attesting
60 to citizenship or permanent legal residency; providing
61 procedure with respect to verification of eligibility
62 for benefits; prohibiting any agency from providing
63 any state, local, or federal benefit in violation of
64 the requirements of the section; providing for
65 specified annual reports; providing effective dates.
66

67 Be It Enacted by the Legislature of the State of Florida:
68

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

71 Section 2. Section 287.0575, Florida Statutes, is created
72 to read:

73 287.0575 Compliance with federal work authorization
74 programs.—

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

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

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

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88 (2) An agency may not enter into a contract under s.
89 287.057 for contractual services unless the contractor registers
90 and participates in a federal work authorization program.

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

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

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

104 (a) On or after July 1, 2011, with respect to contractors
105 or subcontractors employing 500 or more employees.

106 (b) On or after July 1, 2012, with respect to contractors
107 or subcontractors employing 100 or more employees.

108 (c) On or after July 1, 2013, with respect to all
109 contractors or subcontractors.

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

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

114 Section 3. Section 337.163, Florida Statutes, is created to
115 read:

116 337.163 Compliance with federal work authorization

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117 program.-

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

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

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

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

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

141 (4) A contractor shall ensure that each subcontractor
142 providing services for the contractor registers and participates
143 in a federal work authorization program. Each subcontractor
144 shall certify in writing to the contractor that it is in
145 compliance with this subsection.

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

147 (a) On or after July 1, 2011, with respect to contractors
148 or subcontractors employing 500 or more employees.

149 (b) On or after July 1, 2012, with respect to contractors
150 or subcontractors employing 100 or more employees.

151 (c) On or after July 1, 2013, with respect to all
152 contractors or subcontractors.

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

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

157 Section 4. Subsection (8) is added to section 943.0311,
158 Florida Statutes, and, effective if funding under the federal
159 Homeland Security Appropriation Act of 2010 or any subsequent
160 source of federal funding is provided to fund the provisions of
161 the subsection, subsection (9) is added to that section, to
162 read:

163 943.0311 Chief of Domestic Security; duties of the
164 department with respect to domestic security.—

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

169 1. The enforcement of federal immigration and customs laws.

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

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

174 4. The establishment of law enforcement training standards

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175 and the creation of law enforcement training programs as
176 provided in subsection (9).

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

181 (9) (a) Contingent upon funding in the federal Homeland
182 Security Appropriation Act of 2010 or any subsequent source of
183 federal funding, the Chief of Domestic Security shall work with
184 the regional domestic security task forces and the various state
185 entities responsible for establishing training standards
186 applicable to law enforcement officers to establish training
187 standards and create training programs the purpose of which is
188 to enhance the ability of law enforcement officers to enforce
189 federal immigration and customs laws while performing within the
190 scope of their authorized duties.

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

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

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

200 (1) If the lawful immigration status of any person who is
201 charged with a crime and confined to a county or municipal
202 detention facility for any period of time cannot be verified
203 from documents in the possession of the county or municipal

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204 prisoner or after a reasonable effort on the part of law
205 enforcement officials, such verification shall be made within 48
206 hours through a query to the Law Enforcement Support Center
207 (LESC) of the United States Department of Homeland Security or
208 other office or agency designated for that purpose by the United
209 States Department of Homeland Security. If it is determined that
210 a county or municipal prisoner is in the United States
211 unlawfully, the law enforcement agency shall notify the United
212 States Department of Homeland Security.

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

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

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

223 PART IV

224 AGENCY ADMINISTRATION OF PUBLIC BENEFITS

225 23.40 Agency administration of public benefits;
226 verification of lawful status.—

227 (1) Except as provided in subsection (3) or where exempted
228 by federal law, no later than July 1, 2011, every agency, as
229 defined in s. 20.03, shall verify the lawful presence in the
230 United States of any natural person 18 years of age or older who
231 has applied for state or local public benefits, as defined in 8
232 U.S.C. s. 1621, or for federal public benefits, as defined in 8

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233 U.S.C. s. 1611, that are administered by the agency.

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

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

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

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

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

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

250 (e) Programs, services, or assistance such as soup
251 kitchens, crisis counseling and intervention, and short-term
252 shelter specified by the United States Attorney General, in the
253 United States Attorney General's sole and unreviewable
254 discretion after consultation with appropriate federal agencies
255 and departments, which:

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

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

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

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262 (f) Prenatal care; or

263 (g) Postsecondary education.

264 (4) The Board of Governors of the State University System
265 shall set forth, or cause to be set forth, policies regarding
266 postsecondary education benefits that comply with all applicable
267 federal laws, including, but not limited to, those governing
268 ineligibility for public benefits as described in 8 U.S.C. s.
269 1611, s. 1621, or s. 1623.

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

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

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

281 (b) Any person who knowingly and willfully makes a false,
282 fictitious, or fraudulent statement or representation in an
283 affidavit executed pursuant to paragraph (a) commits a
284 misdemeanor of the first degree, punishable as provided in s.
285 775.082 or s. 775.083.

286 (6) For any applicant who has executed an affidavit
287 attesting to the fact that he or she is an alien lawfully
288 present in the United States, verification of an applicant's
289 immigration status shall be made through the Systematic Alien
290 Verification for Entitlements Program (SAVE) established by the

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291 United States Citizenship and Immigration Services or a
292 successor program designated by the United States Department of
293 Homeland Security. Until such verification of eligibility is
294 made, the affidavit may be presumed to be proof of lawful
295 presence in the United States for the purposes of this section.

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

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

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

308 (9) Any and all errors and significant delays by the
309 Systematic Alien Verification for Entitlements Program shall be
310 reported to the United States Department of Homeland Security
311 and to the Secretary of State, who will monitor the program and
312 its verification application errors and significant delays and
313 report annually on such errors and significant delays to ensure
314 that the application of the program is not wrongfully denying
315 benefits to legal residents of the state.

316 (10) Notwithstanding subsection (5), any applicant for
317 federal benefits as defined in 8 U.S.C. s. 1611 or state or
318 local benefits as defined in 8 U.S.C. s. 1621 shall not be
319 guilty of any crime for executing an affidavit attesting to

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320 lawful presence in the United States that contains a false
321 statement if such affidavit is not required by this section.

322 Section 7. Except as otherwise expressly provided in this
323 act, this act shall take effect July 1, 2010.