

By Senator Bennett

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1                                   A bill to be entitled  
2       An act relating to the enforcement of immigration  
3       laws; creating s. 943.0536, F.S.; providing  
4       legislative intent; prohibiting the state or its  
5       political subdivisions from limiting or restricting  
6       the enforcement of immigration laws; requiring a law  
7       enforcement officer to request citizenship information  
8       under certain circumstances; authorizing a law  
9       enforcement agency to transport an alien to a federal  
10      facility; requiring judicial authorization for the  
11      transfer of an alien outside the state; allowing  
12      governmental entities to share information regarding  
13      citizenship; authorizing citizens to sue the state or  
14      a political subdivision of the state if the state or  
15      political subdivision is restricting the enforcement  
16      of federal immigration laws; providing for recovery of  
17      attorney's fees; providing for criminal penalties;  
18      prohibiting the probation or release of an alien who  
19      does not possess registration documents; requiring  
20      that the act be implemented consistent with federal  
21      law; prohibiting law enforcement officers from using  
22      race as a determining factor in an assessment under  
23      the act; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

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27       Section 1. Section 943.0536, Florida Statutes, is created  
28 to read:

29       943.0536 Enforcement of immigration laws.-

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30       (1) The Legislature finds that there is a compelling  
31 interest in the cooperative enforcement of federal immigration  
32 laws throughout this state. The section is intended to  
33 discourage and deter the unlawful entry and presence of aliens  
34 in this state and the economic activity by persons unlawfully  
35 present in this state.

36       (2) An official or agency of the state or a political  
37 subdivision of the state may not limit or restrict the  
38 enforcement of federal immigration laws to less than the full  
39 extent permitted by federal law.

40       (3) (a) If, during a lawful stop, detention, or arrest made  
41 by a law enforcement officer of this state or a political  
42 subdivision of this state made to enforce any law or ordinance  
43 of the state or a political subdivision, reasonable suspicion  
44 exists that the person stopped, detained, or arrested is an  
45 alien and is unlawfully present in the United States, a  
46 reasonable attempt shall be made, when practicable, to determine  
47 the immigration status of the person stopped, detained, or  
48 arrested, except if the determination may hinder or obstruct an  
49 investigation.

50       (b) A person who is arrested shall have his or her  
51 immigration status determined before the person is released.

52       (c) The immigration status of the person stopped, detained,  
53 or arrested shall be verified with the Federal Government  
54 pursuant to 8 U.S.C. s. 1373(c).

55       (d) A law enforcement officer of this state or a political  
56 subdivision of this state may not consider race, color, or  
57 national origin when implementing the requirements of this  
58 subsection, except to the extent permitted by the United States

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59 Constitution or the State Constitution.

60 (e) A person is presumed to be an alien who is lawfully  
61 present in the United States if the person provides to the law  
62 enforcement officer any of the following:

63 1. A valid Florida driver's license;

64 2. A valid Florida identification card;

65 3. A valid tribal enrollment card or other form of tribal  
66 identification; or

67 4. Any valid United States federal, state, or local  
68 identification, if the entity providing the identification  
69 requires proof of legal presence in the United States.

70 (4) If an alien is unlawfully present in the United States  
71 and he or she is convicted of a violation of a state or local  
72 law, on discharge from incarceration or on the assessment of any  
73 monetary obligation that is imposed, the appropriate state or  
74 local law enforcement agency shall immediately notify the United  
75 States Immigration and Customs Enforcement or the United States  
76 Customs and Border Protection.

77 (5) Notwithstanding any other law, a law enforcement agency  
78 may transport an alien for whom the agency has received  
79 verification that he or she is unlawfully present in the United  
80 States and who is in the agency's custody to a federal facility  
81 in this state or to any other point of transfer into federal  
82 custody which is outside the jurisdiction of the law enforcement  
83 agency. A law enforcement agency shall obtain judicial  
84 authorization before transporting an alien to a point of  
85 transfer outside this state.

86 (6) When implementing this section, an alien's immigration  
87 status may be determined by:

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88 (a) A law enforcement officer who is authorized by the  
89 Federal Government to verify or ascertain an alien's immigration  
90 status.

91 (b) The United States Immigration and Customs Enforcement  
92 or the United States Customs and Border Protection pursuant to 8  
93 U.S.C. s. 1373(c).

94 (7) Except as provided in federal law, an official of this  
95 state or a political subdivision of this state may not be  
96 prohibited or in any way restricted from sending, receiving, or  
97 maintaining information relating to the immigration status of an  
98 individual. These officials and agencies may exchange  
99 information with any other governmental entity for purposes of:

100 (a) Determining the eligibility of a person for any public  
101 benefit, service, or license provided by any federal, state, or  
102 local government.

103 (b) Verifying any claim of residence or domicile if  
104 determination of residence or domicile is required under the  
105 laws of this state or a judicial order.

106 (c) Determining whether the alien is in compliance with the  
107 federal registration laws prescribed by Title II of chapter 7 of  
108 the federal Immigration and Nationality Act.

109 (8) A person who is a legal resident of this state may  
110 bring an action in a county court to challenge any official or  
111 agency of this state or a political subdivision of this state  
112 which adopts or implements a policy that limits or restricts the  
113 enforcement of federal immigration laws, including 8 U.S.C. ss.  
114 1373 and 1644, to less than the full extent permitted by federal  
115 law. If the court finds that the state or political subdivision  
116 has violated this section, the court shall order that the state

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117 or political subdivision pay a civil penalty of not less than  
118 \$500 and not more than \$5,000 for each day that the policy has  
119 remained in effect after the filing of an action pursuant to  
120 this subsection.

121 (9) The court may award court costs and reasonable  
122 attorney's fees to any person or any official or agency of this  
123 state or political subdivision of this state prevailing by an  
124 adjudication on the merits in a proceeding brought pursuant to  
125 subsection (8).

126 (10) In addition to any other violation of federal law, a  
127 person may not willfully fail to complete or carry an alien  
128 registration document if the person is in violation of 8 U.S.C.  
129 s. 1373(e) or s. 1306(a). A person is not subject to sanctions  
130 under subsection (7), subsection (8), subsection (9), or this  
131 subsection if he or she maintains authorization from the Federal  
132 Government to remain in the United States. In the enforcement of  
133 this subsection, an alien's immigration status may be determined  
134 by:

135 (a) A law enforcement officer who is authorized by the  
136 Federal Government to verify or ascertain an alien's immigration  
137 status.

138 (b) The United States Immigration and Customs Enforcement  
139 or the United States Customs and Border Protection pursuant to 8  
140 U.S.C. s. 1373(c).

141 (11) A person who is sentenced pursuant to subsection (10)  
142 is not eligible for suspension of sentence, probation, pardon,  
143 commutation of sentence, or release from confinement on any  
144 basis except as authorized by law.

145 (12) In addition to any other penalty prescribed by law,

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146 the court shall order the person to pay costs of incarceration.

147 (13) A person who willfully fails to complete or carry an  
148 alien registration document required under subsection (10)  
149 commits a misdemeanor of the first degree, punishable as  
150 provided in s. 775.082 or s. 775.083. However any fine imposed  
151 under this subsection may not exceed \$100. A person who violates  
152 this subsection may be sentenced for up to 20 days in jail. A  
153 person who violates this subsection a second or subsequent time  
154 may be sentenced to up to 30 days in jail.

155 (14) This section shall be implemented in a manner  
156 consistent with federal laws regulating immigration, protecting  
157 civil rights of all persons, and respecting the privileges and  
158 immunities of United States citizens.

159 (15) A law enforcement officer of this state or a political  
160 subdivision of the state may not consider race, color, or  
161 national origin in the enforcement of this section, except to  
162 the extent permitted by the United States Constitution or the  
163 State Constitution.

164 (16) Fines collected under this section shall be deposited  
165 into the General Revenue Fund.

166 Section 2. This act shall take effect October 1, 2011.