

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

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

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 26           Section 1. Section 943.0536, Florida Statutes, is created  
 27   to read:  
 28           943.0536 Enforcement of immigration laws.-

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

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

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

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

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

54       (d) A law enforcement officer of this state or a political  
55 subdivision of this state may not consider race, color, or  
56 national origin when implementing the requirements of this

57 subsection, except to the extent permitted by the United States  
 58 Constitution or the State Constitution.

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

- 62 1. A valid Florida driver's license;
- 63 2. A valid Florida identification card;
- 64 3. A valid tribal enrollment card or other form of tribal  
 65 identification; or
- 66 4. Any valid United States federal, state, or local  
 67 identification, if the entity providing the identification  
 68 requires proof of legal presence in the United States.

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

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

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

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

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

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

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

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

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

108 (8) A person who is a legal resident of this state may  
 109 bring an action in a county court to challenge any official or  
 110 agency of this state or a political subdivision of this state  
 111 which adopts or implements a policy that limits or restricts the  
 112 enforcement of federal immigration laws, including 8 U.S.C. ss.

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113 1373 and 1644, to less than the full extent permitted by federal  
114 law. If the court finds that the state or political subdivision  
115 has violated this section, the court shall order that the state  
116 or political subdivision pay a civil penalty of not less than  
117 \$500 and not more than \$5,000 for each day that the policy has  
118 remained in effect after the filing of an action pursuant to  
119 this subsection.

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

125 (10) In addition to any other violation of federal law, a  
126 person may not willfully fail to complete or carry an alien  
127 registration document if the person is in violation of 8 U.S.C.  
128 s. 1304(e) or s. 1306(a). A person is not subject to sanctions  
129 under subsection (7), subsection (8), subsection (9), or this  
130 subsection if he or she maintains authorization from the Federal  
131 Government to remain in the United States. In the enforcement of  
132 this subsection, an alien's immigration status may be determined  
133 by:

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

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

140 (11) A person who is sentenced pursuant to subsection (10)

141 is not eligible for suspension of sentence, probation, pardon,  
 142 commutation of sentence, or release from confinement on any  
 143 basis except as authorized by law.

144 (12) In addition to any other penalty prescribed by law,  
 145 the court shall order the person to pay costs of incarceration.

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

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

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

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

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