A bill to be entitled
The codification of immigration laws;
amending s. 445.009, F.S.; requiring one-stop career
center staff to verify the employment eligibility of
workers referred to employers using a federal program
for electronic verification of employment eligibility;
providing an exception; requiring notice to employers
on the exception to use of electronic verification;
providing definitions relating to administration of
public benefits; prohibiting an agency from providing
federal, state, or local public benefits to certain
aliens; providing exceptions; requiring an agency to
verify the eligibility of applicants for public
benefits using the federal Systematic Alien
Verification for Entitlements Program; requiring
agencies to compile and maintain compliance
information; creating s. 901.37, F.S.; directing
certain agencies having custody of arrestees to make
reasonable efforts to determine whether the arrestees
are present in the United States lawfully; providing
for fingerprints of the arrestees to be checked
against federal databases; providing that holding
agencies shall notify the United States Department of
Homeland Security regarding individuals in their
custody whose unlawful presence in the United States
is established independently by the agencies;
requiring the Department of Law Enforcement to enter
into and maintain an agreement with the United States
Department of Homeland Security for checking
fingerprints of arrestees against federal databases to determine immigration status; providing for a presumption as to risk of flight in order to avoid prosecution; creating s. 945.80, F.S.; requiring the Department of Corrections to release nonviolent inmates to the custody of the United States Immigration and Customs Enforcement under certain circumstances; providing a definition; requiring the department to identify criminal aliens who are eligible for removal; prescribing certain procedures for the transfer of an inmate to federal custody; requiring the Parole Commission to provide notice to such criminal aliens; providing that a prisoner released under this authority shall be under conditional supervision of the Parole Commission; prescribing conditions of such supervision; providing for procedures for revocation of release upon violation of the conditions; providing that a releasee whose conditional release is revoked is not thereafter eligible for any form of discretionary release; providing an exception; directing the secretary of the department to pursue an agreement with the United States Department of Homeland Security regarding the rapid repatriation of removable custodial aliens; requiring the department to compile statistics; authorizing the Department of Corrections and the Parole Commission to adopt rules; providing for applicability; amending s. 947.141, F.S.; conforming procedures relating to a violation of conditional
WHEREAS, Florida ranks third among states in the size of its unauthorized immigrant population, with an estimated range of 725,000 to 950,000 unauthorized immigrants in this state, and

WHEREAS, unauthorized immigration contributes directly and indirectly to substantial costs to the state in policy areas including, but not limited to, law enforcement, criminal justice, labor and employment, education, health care, and human services, and

WHEREAS, the costs related to unauthorized immigration can consume limited state resources, and

WHEREAS, the federal government has failed to enforce immigration laws adequately and to adopt and implement comprehensive reforms to immigration laws in order to control and contain unauthorized immigration effectively, and

WHEREAS, because of the federal government’s failure, and because they cannot ignore the challenges posed by unauthorized immigration, states must assume the mantle of leadership for enacting policies to promote within their borders compliance with the immigration laws of this nation, NOW, THEREFORE,
Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (12) is added to section 445.009, Florida Statutes, to read:

445.009 One-stop delivery system.—

(12)(a) Staff of the one-stop delivery system shall use the federal program for electronic verification of employment eligibility which is known as the E-Verify Program, or any successor program, to verify the employment eligibility of any worker who is referred to an employer and shall issue to the employer a certification of the verification as provided in regulations of the United States Department of Homeland Security.

(b) The requirement to verify employment eligibility under this subsection does not apply in the case of a worker who uses an online referral system and does not report in person to the one-stop career center. If a worker reports in person to a one-stop career center after using the online referral system, the one-stop career center shall perform the verification required by this subsection. The website for the Agency for Workforce Innovation and for the one-stop delivery system in the area served by each regional workforce board shall provide notice to employers that the one-stop career center is not performing electronic-verification inquiries for online referrals.

(c) The Agency for Workforce Innovation, together with the regional workforce boards, shall consult with the United States Department of Homeland Security, the United States Department of Labor, and any other appropriate federal agencies to develop procedures, consistent with federal requirements, addressing
circumstances in which use of the E-Verify Program, or any successor program, is not possible based on the information or documentation presented by the worker.

Section 2. Agency administration of public benefits; verification of lawful status.—

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

(a) “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this section, any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public entity.

(b) “Federal public benefit” has the same meaning as in 8 U.S.C. s. 1611(c).

(c) “Qualified alien” has the same meaning as in 8 U.S.C. s. 1641(b).

(d) “SAVE Program” means the Systematic Alien Verification for Entitlements (SAVE) Program established by the United States Citizenship and Immigration Services.

(e) “State or local public benefit” has the same meaning as in 8 U.S.C. s. 1621(c).

(2)(a) Except as otherwise provided in 8 U.S.C. s. 1621(b), an alien is not eligible for any state or local public benefit unless the alien is:

1. A qualified alien;

2. A nonimmigrant under the federal Immigration and Nationality Act; or

3. An alien who is paroled into the United States under s.
212(d)(5) of the federal Immigration and Nationality Act for
less than 1 year.

(b) Each agency shall verify through the SAVE Program the
eligibility under this subsection of any applicant for a state
or local public benefit administered by the agency.

(3)(a) Except as otherwise provided in 8 U.S.C. s. 1611(b),
an alien who is not a qualified alien is not eligible for any
federal public benefit.

(b) Each agency shall verify through the SAVE Program the
eligibility under this subsection of any applicant for a federal
public benefit administered by an agency.

(4)(a) An agency may not provide any state or local public
benefit or federal public benefit in violation of this section.

(b) Each agency that administers a state or local public
benefit or federal public benefit shall annually compile and
maintain information on its compliance with this section.

(c) In the implementation of this section, each agency
shall endeavor to improve efficiency, minimize delays in the
verification process, and provide for the expeditious resolution
of individual cases in which verification procedures would
impose undue hardship on a legal resident. An agency shall
report all errors in the SAVE Program to the United States
Department of Homeland Security.

Section 3. Section 901.37, Florida Statutes, is created to
read:

901.37.—Identification of unauthorized immigrants upon
arrest and confinement.—

(1) When a person is confined in a jail or other criminal
detention facility after being arrested, the agency having
custody of the person shall make a reasonable effort to
determine the nationality of the person and whether the person
is present in the United States lawfully, including, but not
limited to, participating in the submission of fingerprints
pursuant to the agreement under subsection (2). If the holding
agency establishes, independent of the submission of
fingerprints, that the person is not lawfully present in the
United States, the agency shall notify the United States
Department of Homeland Security.

(2) The Department of Law Enforcement shall enter into, and
perform all actions reasonably necessary to meet its obligations
under, a memorandum of agreement with the United States
Department of Homeland Security to implement a program through
which fingerprints submitted by local law enforcement agencies
during the arrest and booking process are checked against
federal databases in order to assess the immigration status of
individuals in custody.

(3) This section may not be construed to:
(a) Authorize the arrest of a person on suspicion that the
person is not present in the United States lawfully; or
(b) Deny a person bond or prevent release of a person from
confinement if the person is otherwise eligible for release.
However, for the purpose of the bail determination required by
s. 903.046, Florida Statutes, a determination that the person is
not present in the United States lawfully raises a rebuttable
presumption that there is a risk of flight to avoid prosecution.

Section 4. Section 945.80, Florida Statutes, is created to
read:

945.80 Rapid removal of deportable criminal aliens.—
(1) Notwithstanding any law to the contrary, and pursuant to s. 241(a)(4)(B)(ii) of the federal Immigration and Nationality Act, the secretary of the department shall release a prisoner, prior to the completion of his or her sentence, to the custody and control of the United States Immigration and Customs Enforcement if:

(a) The prisoner is confined pursuant to a final conviction for a nonviolent offense;

(b) The department has received a final order of removal for the prisoner from the United States Immigration and Customs Enforcement; and

(c) The secretary determines that removal is appropriate and in the best interest of the state.

As used in this section, the term “nonviolent offense” means a third-degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08.

(2)(a) The department shall identify, during the inmate-reception process and among the existing inmate population, prisoners who are eligible for removal under this section and determine whether removal is appropriate and in the best interest of the state. The department shall provide eligible prisoners with information on this section.

(b) The department shall coordinate with federal authorities to determine the eligibility of a prisoner for removal and to obtain a final order of removal.

(3)(a) Upon approval for removal of the prisoner under this section, the department shall establish a release date for the
prisoner to be transferred to federal custody. The department shall maintain control of and responsibility for the custody of the prisoner until the prisoner is physically transferred to federal custody.

(b) In coordination with the department, the Parole Commission shall provide notice and obtain acknowledgment in writing that notice was provided to each alien who is approved for removal and deportation that reentry into the United States requires the return of the alien to the custody of the department in order to complete the remainder of his or her sentence imposed by the court. The alien must agree to release into federal custody under this section.

(4) A prisoner who is released under this section shall be under conditional supervision of the Parole Commission for the remainder of the maximum period for which he or she has been sentenced.

(a) The conditions of supervision for a prisoner who is released under this section are that he or she must not:

1. Violate the law of this state or of any other jurisdiction of the United States; or

2. Return to the United States after release.

(b) If a prisoner who is released under this section returns to the United States, the Parole Commission shall revoke the release of the prisoner in accordance with the procedures in s. 947.141 and seek the return of the prisoner to the custody of the department to serve the remainder of the sentence imposed by the court.

(c) A prisoner whose conditional deportation release is revoked is not thereafter eligible for any form of discretionary
release except as the result of accrual of any gain time earned after return to prison.

(5) The secretary of the department shall pursue, and is authorized to enter into, an agreement with the United States Department of Homeland Security regarding the rapid repatriation of removable custodial aliens from the United States pursuant to this section.

(6) The department shall compile statistics on implementation of this section, including, but not limited to:

(a) The number of prisoners who are transferred to federal custody;

(b) The number of prisoners who are removed or deported;

(c) The number of releasees who reenter the United States, including the number who are returned to the custody of the department; and

(d) The annual cost-avoidance achieved.

(7) The department and the Parole Commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(8) To the extent practicable, this section applies to all prisoners actually in confinement on, and all prisoners taken into confinement after, July 1, 2011.

Section 5. Section 947.141, Florida Statutes, is amended to read:

947.141 Violations of conditional release, control release, conditional medical release, addiction-recovery supervision, or conditional deportation release.—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to
believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, or s. 945.80 has violated the terms and conditions of the release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee; if the offender was found to be a sexual predator, the warrant must be issued.

(2) Upon the arrest on a felony charge of an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, or s. 945.80, the offender must be detained without bond until the initial appearance of the offender at which a judicial determination of probable cause is made. If the trial court judge determines that there was no probable cause for the arrest, the offender may be released. If the trial court judge determines that there was probable cause for the arrest, such determination also constitutes reasonable grounds to believe that the offender violated the conditions of the release. Within 24 hours after the trial court judge’s finding of probable cause, the detention facility administrator or designee shall notify the commission and the department of the finding and transmit to each a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge’s probable cause determination is based. The offender must continue to be detained without bond for a period not exceeding 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the commission whether to issue a warrant charging the offender with violation of the conditions of release. Upon the issuance of the commission’s warrant, the offender must
continue to be held in custody pending a revocation hearing held in accordance with this section.

(3) Within 45 days after notice to the Parole Commission of the arrest of a releasee charged with a violation of the terms and conditions of conditional release, control release, conditional medical release, or addiction-recovery supervision, or conditional deportation release, the releasee must be afforded a hearing conducted by a commissioner or a duly authorized representative thereof. If the releasee elects to proceed with a hearing, the releasee must be informed orally and in writing of the following:

(a) The alleged violation with which the releasee is charged.
(b) The releasee’s right to be represented by counsel.
(c) The releasee’s right to be heard in person.
(d) The releasee’s right to secure, present, and compel the attendance of witnesses relevant to the proceeding.
(e) The releasee’s right to produce documents on the releasee’s own behalf.
(f) The releasee’s right of access to all evidence used against the releasee and to confront and cross-examine adverse witnesses.
(g) The releasee’s right to waive the hearing.

(4) Within a reasonable time following the hearing, the commissioner or the commissioner’s duly authorized representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A panel of no fewer than two commissioners shall enter an order determining whether the charge of violation of conditional release, control release,
conditional medical release, or addiction-recovery supervision, or conditional deportation release has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the panel may revoke conditional release, control release, conditional medical release, or addiction-recovery supervision, or conditional deportation release and thereby return the releasee to prison to serve the sentence imposed, reinstate the original order granting the release, or enter such other order as it considers proper. Effective for inmates whose offenses were committed on or after July 1, 1995, the panel may order the placement of a releasee, upon a finding of violation pursuant to this subsection, into a local detention facility as a condition of supervision. For prisoners who have violated the conditions governing removal and deportation of criminal aliens under s. 945.80, the commission shall order the return to prison.

(5) Effective for inmates whose offenses were committed on or after July 1, 1995, notwithstanding the provisions of ss. 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and 951.23, or any other law to the contrary, by such order as provided in subsection (4), the panel, upon a finding of guilt, may, as a condition of continued supervision, place the releasee in a local detention facility for a period of incarceration not to exceed 22 months. Prior to the expiration of the term of incarceration, or upon recommendation of the chief correctional officer of that county, the commission shall cause inquiry into the inmate’s release plan and custody status in the detention facility and consider whether to restore the inmate to supervision, modify the conditions of supervision, or enter an
order of revocation, thereby causing the return of the inmate to prison to serve the sentence imposed. The provisions of this section do not prohibit the panel from entering such other order or conducting any investigation that it deems proper. The commission may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The agreement must provide for a per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender’s placement in the facility. This section does not limit the commission’s ability to place a person in a local detention facility for less than 1 year. This subsection is not applicable to a person violating the conditions governing removal and deportation of criminal aliens under s. 945.80.

(6) Whenever a conditional release, control release, conditional medical release, or addiction-recovery supervision, or conditional deportation release is revoked by a panel of no fewer than two commissioners and the releasee is ordered to be returned to prison, the releasee, by reason of the misconduct, shall be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of release. However, if a conditional medical release is revoked due to the improved medical or physical condition of the releasee, the releasee shall not forfeit gain-time accrued before the date of conditional medical release. This subsection does not deprive the prisoner of the right to gain-time or commutation of time for good conduct, as provided by law, from
the date of return to prison.

(7) If a law enforcement officer has probable cause to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, or s. 945.80 has violated the terms and conditions of his or her release by committing a felony offense, the officer shall arrest the offender without a warrant, and a warrant need not be issued in the case.

Section 6. This act shall take effect July 1, 2011.