

1                   A bill to be entitled  
2           An act relating to the enforcement of immigration laws;  
3           providing a short title; providing a directive to the  
4           Division of Statutory Revision; creating s. 820.01, F.S.;  
5           providing legislative intent; creating s. 820.02, F.S.;  
6           prohibiting the state or its political subdivisions from  
7           limiting or restricting the enforcement of federal  
8           immigration laws; providing that the state or its  
9           political subdivisions may not be prohibited from  
10          maintaining or exchanging information regarding  
11          immigration status for certain purposes; providing for  
12          enforcement and penalties; authorizing a law enforcement  
13          officer to determine immigration status under certain  
14          circumstances; providing that an alien who is in this  
15          state and is unlawfully present in the United States  
16          commits a misdemeanor of the second degree; providing  
17          penalties; requiring implementation consistent with  
18          federal law; prohibiting law enforcement officers from  
19          using race, color, or national origin in the enforcement;  
20          creating s. 820.03, F.S.; providing definitions; requiring  
21          every employer to use the federal E-Verify system to  
22          verify the employment eligibility of each employee on or  
23          after a specified date; prohibiting an employer from  
24          knowingly employing an unauthorized alien; requiring that  
25          each verification be made in accordance with certain  
26          provisions of federal law; authorizing certain persons to  
27          file a complaint with the licensing agency alleging that  
28          an employer has employed an unauthorized alien; providing

29 | for enforcement and penalties; providing that an employer  
30 | is not liable for hiring, refusing to hire, or terminating  
31 | an employee under certain conditions; authorizing an  
32 | employer or employee to seek an injunction under certain  
33 | circumstances; authorizing certain persons to file a  
34 | complaint with the state attorney or Attorney General  
35 | alleging that an employer has employed an unauthorized  
36 | alien; authorizing enforcement by the state attorney and  
37 | Attorney General; providing penalties; prohibiting the  
38 | filing of a complaint based on race, color, or national  
39 | origin; providing that a person who knowingly files a  
40 | false and frivolous complaint commits a misdemeanor of the  
41 | second degree; providing for construction; transferring  
42 | and renumbering s. 448.09, F.S., relating to a prohibition  
43 | on employment of unauthorized aliens; creating s. 287.135,  
44 | F.S.; providing definitions; requiring public employers to  
45 | use the federal E-Verify system to verify the employment  
46 | eligibility of each employee; prohibiting a public  
47 | employer from knowingly employing an unauthorized alien;  
48 | providing that a public employer is not liable for hiring,  
49 | refusing to hire, or terminating an employee under certain  
50 | conditions; prohibiting public employers from entering  
51 | into a contract for contractual services with contractors  
52 | that are not registered and participating in the federal  
53 | E-Verify system; prohibiting certain contractors and  
54 | subcontractors from knowingly employing an unauthorized  
55 | alien; providing procedures and requirements; providing  
56 | that certain contractors and subcontractors are not liable

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57 | for hiring, refusing to hire, or terminating an employee  
58 | under certain conditions; providing for enforcement  
59 | without regard to race, color, or national origin;  
60 | creating s. 337.163, F.S.; providing definitions;  
61 | prohibiting the Department of Transportation from entering  
62 | into certain contracts with contractors that are not  
63 | registered and participating in the federal E-Verify  
64 | system; prohibiting certain contractors and subcontractors  
65 | from knowingly employing an unauthorized alien; providing  
66 | procedures and requirements; creating a rebuttable  
67 | presumption that certain contractors and subcontractors  
68 | did not knowingly employ an unauthorized alien; providing  
69 | for enforcement without regard to race, color, or national  
70 | origin; amending s. 901.15, F.S.; providing an additional  
71 | instance whereby an arrest may be made by a law  
72 | enforcement officer without a warrant; amending s.  
73 | 903.046, F.S.; providing additional criteria for the court  
74 | to consider when determining whether to release a  
75 | defendant on bail or other conditions; creating s.  
76 | 921.245, F.S.; providing for enhanced maximum criminal  
77 | penalties when an offense is committed by an alien  
78 | unlawfully present in the United States; providing  
79 | severability; providing legislative findings of public  
80 | necessity; providing effective dates.

81 |  
82 | Be It Enacted by the Legislature of the State of Florida:  
83 |

84           Section 1. Short title.—This act may be cited as the  
 85 "Florida Immigration Enforcement Act."

86           Section 2. The Division of Statutory Revision is directed  
 87 to create chapter 820, Florida Statutes, to be entitled  
 88 "IMMIGRATION ENFORCEMENT."

89           Section 3. Section 820.01, Florida Statutes, is created to  
 90 read:

91           820.01 Intent.—The Legislature finds that there is a  
 92 compelling interest in the cooperative enforcement of federal  
 93 immigration laws throughout the state. The Legislature declares  
 94 that the intent of this chapter is to discourage and deter the  
 95 unlawful entry and presence of aliens in this state. The  
 96 provisions of this chapter are intended to work together to  
 97 accomplish this purpose.

98           Section 4. Section 820.02, Florida Statutes, is created to  
 99 read:

100           820.02 Cooperation and assistance in enforcement of  
 101 immigration laws.—

102           (1) (a) An official or agency of this state or a county,  
 103 municipality, or other political subdivision of this state may  
 104 not limit or restrict the enforcement of federal immigration  
 105 laws to less than the full extent permitted by federal law.

106           (b) Except as provided in federal law, officials or  
 107 agencies of this state and counties, municipalities, and other  
 108 political subdivisions of this state may not be prohibited or in  
 109 any way be restricted from sending, receiving, or maintaining  
 110 information relating to the immigration status, lawful or  
 111 unlawful, of any individual or exchanging that information with

112 any other federal, state, or local governmental entity for the  
 113 following official purposes:

114 1. Determining eligibility for any public benefit,  
 115 service, or license provided by the Federal Government, the  
 116 state, or any county, municipality, or other political  
 117 subdivision of this state.

118 2. Verifying any claim of residence or domicile if  
 119 determination of residence or domicile is required under federal  
 120 law, the laws of this state, or a judicial order issued pursuant  
 121 to a civil or criminal proceeding in this state.

122 3. If the person is an alien, determining whether the  
 123 person is in compliance with the federal registration laws  
 124 prescribed by Title II, Chapter 7 of the federal Immigration and  
 125 Nationality Act.

126 4. Complying with 8 U.S.C. ss. 1373 and 1644.

127 (c)1. The Attorney General may enforce this subsection if  
 128 there is reasonable cause to believe that this subsection has  
 129 been violated and may commence a civil or administrative action  
 130 and, in addition to the penalty provided in this subparagraph,  
 131 may seek such other relief as may be appropriate. If there is a  
 132 judicial finding that an entity has violated this subsection,  
 133 the court shall order that the entity pay a civil penalty of not  
 134 less than \$500 and not more than \$5,000 for each day that the  
 135 policy remains in effect after the filing of an action under  
 136 this subsection.

137 2. The court shall collect the civil penalty prescribed in  
 138 subparagraph 1. and deposit the moneys in the Violent Crime  
 139 Investigative Emergency and Drug Control Strategy Implementation

140 Account within the Department of Law Enforcement Operating Trust  
141 Fund pursuant to s. 943.042.

142 (2) (a) 1. A reasonable attempt may be made to determine the  
143 immigration status of a person who is the subject of a criminal  
144 investigation by a law enforcement official or a law enforcement  
145 agency of this state or of a county, municipality, or other  
146 political subdivision of this state, if reasonable suspicion  
147 exists that the person is an alien and is unlawfully present in  
148 the United States.

149 2. A reasonable attempt shall be made to determine the  
150 immigration status of a person who is arrested by a law  
151 enforcement official or a law enforcement agency of this state  
152 or of a county, municipality, or other political subdivision of  
153 this state before the person is released, if reasonable  
154 suspicion exists that the person is an alien and is unlawfully  
155 present in the United States.

156 (b) Immigration status shall be verified under this  
157 subsection with the Federal Government pursuant to 8 U.S.C. s.  
158 1373(c). If the person's status is reported by the Federal  
159 Government as unlawfully present in the United States, the law  
160 enforcement official or law enforcement agency must, as soon as  
161 practicable, report that person to the United States Immigration  
162 and Customs Enforcement or the United States Customs and Border  
163 Protection.

164 (3) An alien who is in this state and is unlawfully  
165 present in the United States commits a misdemeanor of the second  
166 degree, punishable as provided in s. 775.082 and by a fine not  
167 to exceed \$100. For a first violation of this subsection, the

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168 court may not sentence the person to more than 20 days in jail.  
169 For a second or subsequent violation, the court may not sentence  
170 the person to more than 30 days in jail.

171 (4) A state or local correctional facility shall  
172 immediately notify the United States Immigration and Customs  
173 Enforcement or the United States Customs and Border Protection  
174 prior to the discharge from imprisonment of an alien unlawfully  
175 present in the United States.

176 (5) In the implementation of this section, an alien's  
177 immigration status may be determined by:

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

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

184 (6) This section shall be implemented in a manner  
185 consistent with federal laws regulating immigration, protecting  
186 the civil rights of all persons, and respecting the privileges  
187 and immunities of United States citizens. A law enforcement  
188 official or agency of this state or a county, municipality, or  
189 other political subdivision of this state may not consider race,  
190 color, or national origin in the enforcement of this section  
191 except to the extent permitted by the United States Constitution  
192 or the State Constitution.

193 Section 5. Effective July 1, 2012, section 820.03, Florida  
194 Statutes, is created to read:

195 820.03 Use of E-Verify system required for private

196 employers; licensing enforcement.-

197 (1) DEFINITIONS.-As used in this section, the term:

198 (a) "Agency" means an agency, department, board, or  
 199 commission of this state or a county, municipality, or political  
 200 subdivision issuing a license for the purpose of operating a  
 201 business in this state.

202 (b) "E-Verify system" means the Employment Authorization  
 203 Program, formerly the "Basic Pilot Program," under Pub. L. No.  
 204 104-208, Division C, Title IV, Subtitle A, s. 403, 110 Stat.  
 205 3009-655 (Sept. 30, 1996), as amended, or any successor program  
 206 designated by the Federal Government for verification that an  
 207 employee is an employment-authorized alien.

208 (c) "Employee" means any person who performs employment  
 209 services in this state for an employer pursuant to an employment  
 210 relationship between the person and employer. An employee does  
 211 not include an independent contractor.

212 (d) "Employer" means any person or entity transacting  
 213 business in this state that employs individuals. The term does  
 214 not include:

215 1. A government employer;  
 216 2. The occupant or owner of a private residence who hires  
 217 casual domestic labor to perform work customarily performed by a  
 218 homeowner entirely within a private residence;

219 3. That portion of labor and services provided to a person  
 220 or entity by a licensed independent contractor; or

221 4. An employee leasing company licensed pursuant to part  
 222 XI of chapter 468 that enters into a written agreement or  
 223 understanding with its client company which places the primary



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224 obligation for compliance with this part upon its client  
225 company. In the absence of a written agreement or understanding,  
226 the contracting party, whether the licensed employee leasing  
227 company or client company, that initially hires the leased  
228 employee is responsible for the obligations set forth in this  
229 part. Such employee leasing company shall, at all times, remain  
230 an employer as otherwise specified by law.

231 (e) "Knowingly employ an unauthorized alien" has the same  
232 meaning as prescribed in 8 U.S.C. s. 1324a. The term shall be  
233 interpreted consistently with 8 U.S.C. s. 1324a and any federal  
234 rule or regulation applicable to the unlawful employment of  
235 aliens.

236 (f) "License" means a license, permit, certificate,  
237 approval, registration, charter, or similar form of  
238 authorization required by law and issued by an agency for the  
239 purpose of operating a business. A license includes, but is not  
240 limited to:

241 1. Articles of incorporation.

242 2. A certificate of partnership, a partnership  
243 registration, or articles of organization.

244 3. A grant of authority issued pursuant to state or  
245 federal law.

246 4. A transaction privilege tax license.

247 (g) "Unauthorized alien" means an alien who is not  
248 authorized under federal law to be employed in the United  
249 States, as provided in 8 U.S.C. s. 1324a(h) (3). This term shall  
250 be interpreted consistently with that section and any applicable  
251 federal rules or regulations.

252       (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; SUSPENSION OF  
253 LICENSE.—Paragraphs (a) and (b) apply with respect to employers  
254 employing 100 or more employees on or after July 1, 2012, and  
255 with respect to all employers on and after July 1, 2013.

256       (a) Every employer shall use the E-Verify system to verify  
257 the employment eligibility of all newly hired employees within  
258 the period stipulated by federal law or regulations after the  
259 hiring of the employee. However, an employer is not required to  
260 verify the employment eligibility of a continuing employee hired  
261 before the date of the applicability of the verification  
262 requirements of this section on the employer.

263       (b) A business that has not complied with paragraph (a)  
264 shall lose its license to do business in this state until the  
265 business has registered with the E-Verify system and provided  
266 the agency with a sworn affidavit stating that the business has  
267 registered with the E-Verify system.

268       (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; SUSPENSION OF  
269 LICENSE.—

270       (a) An employer may not knowingly employ an unauthorized  
271 alien.

272       (b) A person who has actual or constructive knowledge that  
273 an employer employs, or has within the last 90 days employed, an  
274 unauthorized alien may file a complaint with the agency.

275       (c) Upon the receipt of a valid complaint of a violation  
276 of paragraph (a), the agency shall notify the employer of the  
277 complaint and direct the employer to notify any affected  
278 employees named in the complaint.

279       (d) The agency shall request that the Federal Government

280 verify, pursuant to 8 U.S.C. s. 1373(c), the employment status  
 281 of any employee named in the complaint.

282 (e) If the agency has reasonable cause to believe that the  
 283 employer has employed an unauthorized alien, the agency shall  
 284 notify the local law enforcement agency of the presence of the  
 285 unauthorized alien in the jurisdiction.

286 (f)1. Upon finding that an employer has violated paragraph  
 287 (a), the agency shall order the employer to:

288 a. Terminate the employment of all unauthorized aliens;  
 289 and

290 b. File a sworn affidavit with the agency within 10 days  
 291 after the receipt of the order. The affidavit must state that  
 292 the employer has corrected the violation by:

293 (I) Terminating the unauthorized alien's employment;

294 (II) Requesting that a second or additional verification  
 295 of the alien's employment status be authorized by using the E-  
 296 Verify system; or

297 (III) Attempting to terminate the unauthorized alien's  
 298 employment, and such termination has been challenged in a court  
 299 of competent jurisdiction.

300 2. If the employer fails to file the required affidavit,  
 301 the agency shall suspend all applicable licenses held by the  
 302 employer. All such licenses suspended shall remain suspended  
 303 until the sworn affidavit is filed. Notwithstanding any other  
 304 law, the suspended licenses shall be deemed to have been  
 305 reinstated upon the filing of the affidavit. During the pendency  
 306 of an action, the 10-day period shall be tolled. The 10-day  
 307 period shall also be tolled for any period during which the

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308 Federal Government allows an alien to challenge the Federal  
309 Government's determination of his or her immigration status or  
310 employment authorization.

311 3. Licenses subject to suspension under this subsection  
312 include all licenses that are held by the employer and that are  
313 necessary to operate the employer's business at the location at  
314 which the unauthorized alien performed work. If a license is not  
315 necessary to operate the employer's business at the specific  
316 location at which the unauthorized alien performed work, but a  
317 license is necessary to operate the employer's business in  
318 general, the licenses subject to suspension under subparagraph  
319 2. include all licenses held by the employer at the employer's  
320 primary place of business.

321 (g) Upon finding a second or subsequent violation of  
322 paragraph (a) during a 2-year period, the agency shall suspend,  
323 for at least 30 days, all licenses that are held by the employer  
324 and that are necessary to operate the employer's business at the  
325 location at which the unauthorized alien performed work. If a  
326 license is not necessary to operate the employer's business at  
327 the specific location at which the unauthorized alien performed  
328 work, but a license is necessary to operate the employer's  
329 business in general, the agency shall suspend all licenses held  
330 by the employer at the employer's primary place of business for  
331 30 days or upon compliance with paragraph (f), whichever occurs  
332 later.

333 (h)1. An employer registered with and participating in the  
334 E-Verify system may not be held civilly liable in a cause of  
335 action for the employer's:

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336 a. Unlawful hiring of an unauthorized alien if the  
337 information obtained in accordance with the E-Verify system  
338 indicated that the employee's federal legal employment status  
339 allowed the employer to hire the employee; or

340 b. Refusal to hire an individual if the information  
341 obtained in accordance with the E-Verify system indicated that  
342 the individual's federal legal employment status was that of an  
343 unauthorized alien.

344 2. Any employer who properly complies with the E-Verify  
345 system in good faith shall not be liable for any damages and  
346 shall be immune from any legal cause of action brought by any  
347 person or entity, including, but not limited to, former  
348 employees, for use and reliance upon any incorrect information  
349 provided by the E-Verify system when determining final action on  
350 an employee's employment status.

351 3. An employer is considered to have complied with the  
352 requirements of 8 U.S.C. s. 1324a(b), notwithstanding an  
353 isolated, sporadic, or accidental technical or procedural  
354 failure to meet the requirements, if there is a good faith  
355 attempt to comply with the requirements.

356 (4) INJUNCTION.—At any time after a complaint is received,  
357 an employer subject to a complaint under this section, or any  
358 employee of the employer who is alleged to be an unauthorized  
359 alien, may challenge and seek to enjoin the enforcement of this  
360 section before a court of competent jurisdiction.

361 (5) ENFORCEMENT.—

362 (a) A person who has actual or constructive knowledge that  
363 an employer employs, or has within the last 90 days employed, an

364 unauthorized alien may file a complaint with the state attorney  
 365 or Attorney General. The state attorney and Attorney General may  
 366 enforce this section if there is reasonable cause to believe  
 367 that this section has been violated and may commence a civil or  
 368 administrative action and seek such other relief as may be  
 369 appropriate.

370 (b) If there is a judicial finding that an employer has  
 371 violated this section, the court shall order that the employer's  
 372 license be suspended in the same manner and under the same terms  
 373 as provided in paragraphs (3) (f) and (g).

374 (6) NONDISCRIMINATION.—A complaint made under this section  
 375 may not be based on race, color, or national origin, except to  
 376 the extent permitted by the United States Constitution or the  
 377 State Constitution. A person who knowingly files a false and  
 378 frivolous complaint under this section commits a misdemeanor of  
 379 the second degree, punishable as provided in s. 775.082 or s.  
 380 775.083.

381 (7) CONSTRUCTION.—This section must be enforced without  
 382 regard to race, color, or national origin and shall be construed  
 383 in a manner so as to be fully consistent with any applicable  
 384 provisions of federal law.

385 Section 6. Section 448.09, Florida Statutes, is  
 386 transferred and renumbered as section 820.04, Florida Statutes.

387 Section 7. Effective January 1, 2012, section 287.135,  
 388 Florida Statutes, is created to read:

389 287.135 Verification of immigration status; public  
 390 employers.—

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

392           (a) "Contractor" means a person who has entered or is  
 393 attempting to enter into a public contract for services with a  
 394 public employer.

395           (b) "E-Verify system" has the same meaning as provided in  
 396 s. 820.03.

397           (c) "Knowingly employ an unauthorized alien" has the same  
 398 meaning as provided in s. 820.03.

399           (d) "Public employer" means any department, agency,  
 400 county, municipality, or political subdivision of the state.

401           (e) "Subcontractor" means any supplier, distributor,  
 402 vendor, or firm furnishing supplies or services to or for a  
 403 contractor or another subcontractor.

404           (f) "Unauthorized alien" has the same meaning as provided  
 405 in s. 820.03.

406           (2) Every public employer shall use the E-Verify system to  
 407 verify the employment eligibility of all newly hired employees  
 408 within the period stipulated by federal law or regulations after  
 409 the hiring of the employee. However, a public employer is not  
 410 required to verify the employment eligibility of a continuing  
 411 employee hired before the date of the applicability of the  
 412 verification requirements of this section on the employer.

413           (3) (a) A public employer may not knowingly employ an  
 414 unauthorized alien.

415           (b)1. A public employer registered with and participating  
 416 in the E-Verify system may not be held civilly liable in a cause  
 417 of action for the public employer's:

418           a. Unlawful hiring of an unauthorized alien if the  
 419 information obtained in accordance with the E-Verify system

420 indicated that the employee's federal legal employment status  
421 allowed the public employer to hire the employee; or

422 b. Refusal to hire an individual if the information  
423 obtained in accordance with the E-Verify system indicated that  
424 the individual's federal legal employment status was that of an  
425 unauthorized alien.

426 2. Any public employer who properly complies with the E-  
427 Verify system in good faith shall not be liable for any damages  
428 and shall be immune from any legal cause of action brought by  
429 any person or entity, including, but not limited to, former  
430 employees, for use and reliance upon any incorrect information  
431 provided by the E-Verify system when determining final action on  
432 an employee's employment status.

433 3. A public employer is considered to have complied with  
434 the requirements of 8 U.S.C. s. 1324a(b), notwithstanding an  
435 isolated, sporadic, or accidental technical or procedural  
436 failure to meet the requirements, if there is a good faith  
437 attempt to comply with the requirements.

438 (4) (a) A contractor or subcontractor may not knowingly  
439 employ an unauthorized alien.

440 (b)1. A public employer may not enter into a contract for  
441 the physical performance of services unless the contractor  
442 registers and participates in the E-Verify system.

443 2. A contractor or subcontractor may not enter into a  
444 contract or subcontract with a public employer in connection  
445 with the physical performance of services unless the contractor  
446 or subcontractor registers with and uses the E-Verify system for  
447 the purpose of verifying information of all newly hired



448 employees.

449 (c) If a contractor uses a subcontractor, the  
450 subcontractor shall certify to the contractor that the  
451 subcontractor, at the time of certification, does not employ or  
452 contract with an unauthorized alien.

453 (d) A contractor shall maintain a copy of the  
454 certification of a subcontractor throughout the duration of the  
455 term of a contract with the subcontractor.

456 (e) If a contractor knows that a subcontractor is in  
457 violation of this subsection, the contractor shall terminate the  
458 contract with the subcontractor.

459 (f) If a public employer knows that a contractor is in  
460 violation of this subsection, the public employer shall  
461 immediately terminate the contract with the contractor and the  
462 contractor is not eligible for public contracts for 1 year after  
463 the date of termination. If the public employer has knowledge  
464 that a subcontractor has violated this subsection, and the  
465 contractor has otherwise complied with this subsection, the  
466 public employer shall promptly notify the contractor and order  
467 the contractor to terminate the contract with the noncompliant  
468 subcontractor.

469 (g) Termination of a contract pursuant to paragraph (e) or  
470 paragraph (f) is not a breach of contract and may not be  
471 considered as such by the contractor or subcontractor.

472 (h) A contractor or subcontractor may file an action with  
473 a circuit or county court having jurisdiction in the county to  
474 challenge a termination of a contract under this subsection no  
475 later than 20 days after the date on which the contract or

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476 subcontract was terminated.

477 (i)1. A contractor or subcontractor registered with and  
478 participating in the E-Verify system may not be held civilly  
479 liable in a cause of action for the contractor's or  
480 subcontractor's:

481 a. Unlawful hiring of an unauthorized alien if the  
482 information obtained in accordance with the E-Verify system  
483 indicated that the employee's federal legal employment status  
484 allowed the contractor or subcontractor to hire the employee; or

485 b. Refusal to hire an individual if the information  
486 obtained in accordance with the E-Verify system indicated that  
487 the individual's federal legal employment status was that of an  
488 unauthorized alien.

489 2. Any contractor or subcontractor who properly complies  
490 with the E-Verify system in good faith shall not be liable for  
491 any damages and shall be immune from any legal cause of action  
492 brought by any person or entity, including, but not limited to,  
493 former employees, for use and reliance upon any incorrect  
494 information provided by the E-Verify system when determining  
495 final action on an employee's employment status.

496 3. A contractor or subcontractor is considered to have  
497 complied with the requirements of 8 U.S.C. s. 1324a(b),  
498 notwithstanding an isolated, sporadic, or accidental technical  
499 or procedural failure to meet the requirements, if there is a  
500 good faith attempt to comply with the requirements.

501 (5) This section shall be construed in a manner so as to  
502 be fully consistent with any applicable federal law and shall be  
503 enforced without regard to race, color, or national origin.

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504 Section 8. Effective January 1, 2012, section 337.163,  
505 Florida Statutes, is created to read:

506 337.163 Compliance with federal work-authorization  
507 program.—

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

509 (a) "Contractor" means a person who has entered or is  
510 attempting to enter into a contract with the department for  
511 services under this chapter.

512 (b) "E-Verify system" has the same meaning as provided in  
513 s. 820.03.

514 (c) "Knowingly employ an unauthorized alien" has the same  
515 meaning as provided in s. 820.03.

516 (d) "Subcontractor" means any supplier, distributor,  
517 vendor, or firm furnishing supplies or services to or for a  
518 contractor or another subcontractor under this chapter.

519 (e) "Unauthorized alien" has the same meaning as provided  
520 in s. 820.03.

521 (2) (a) A contractor or subcontractor may not knowingly  
522 employ an unauthorized alien.

523 (b) The department may not enter into a contract under  
524 this chapter for contractual services unless the contractor  
525 registers and participates in the E-Verify system.

526 (c) A contractor who receives a contract award under this  
527 chapter for contractual services may not execute a contract,  
528 purchase order, or subcontract in connection with the award  
529 unless the contractor and all subcontractors providing services  
530 for the contractor register and participate in the E-Verify  
531 system. The contractor shall certify in writing to the

532 department that it is in compliance with this section.

533 (d) A contractor shall ensure that each subcontractor  
534 providing services for the contractor registers and participates  
535 in the E-Verify system. Each subcontractor shall certify in  
536 writing to the contractor that it is in compliance with this  
537 section. A contractor shall maintain a copy of the certification  
538 of a subcontractor throughout the duration of the term of a  
539 contract with the subcontractor.

540 (e) If a contractor knows that a subcontractor is in  
541 violation of this subsection, the contractor shall terminate the  
542 contract with the subcontractor.

543 (f) If the department knows that a contractor is in  
544 violation of this section, the department shall immediately  
545 terminate the contract with the contractor and the contractor is  
546 not eligible for public contracts for 1 year after the date of  
547 termination. If the department has knowledge that a  
548 subcontractor has violated this section, and the contractor has  
549 otherwise complied with this section, the department shall  
550 promptly notify the contractor and order the contractor to  
551 terminate the contract with the noncompliant subcontractor.

552 (g) Termination of a contract pursuant to paragraph (e) or  
553 paragraph (f) is not a breach of contract and may not be  
554 considered as such by the contractor or subcontractor.

555 (h) A contractor or subcontractor may file an action with  
556 a circuit or county court having jurisdiction in the county to  
557 challenge a termination of a contract under this subsection no  
558 later than 20 days after the date on which the contract or  
559 subcontract was terminated.

560        (i) For the purposes of this subsection, compliance with  
 561 paragraph (b) or paragraph (c) creates a rebuttable presumption  
 562 that a contractor or subcontractor did not knowingly employ an  
 563 unauthorized alien. A contractor or subcontractor that  
 564 establishes that it has complied in good faith with the  
 565 requirements of 8 U.S.C. s. 1324a(b) establishes an affirmative  
 566 defense that the contractor or subcontractor did not knowingly  
 567 employ an unauthorized alien. A contractor or subcontractor is  
 568 considered to have complied with the requirements of 8 U.S.C. s.  
 569 1324a(b), notwithstanding an isolated, sporadic, or accidental  
 570 technical or procedural failure to meet the requirements, if  
 571 there is a good faith attempt to comply with the requirements.

572        (3) This section shall be construed in a manner so as to  
 573 be fully consistent with any applicable federal law and shall be  
 574 enforced without regard to race, color, or national origin.

575        Section 9. Subsection (16) is added to section 901.15,  
 576 Florida Statutes, to read:

577        901.15 When arrest by officer without warrant is lawful.—A  
 578 law enforcement officer may arrest a person without a warrant  
 579 when:

580        (16) The officer has probable cause to believe that the  
 581 person to be arrested is unlawfully in the United States in  
 582 violation of state and federal law.

583        Section 10. Paragraph (c) of subsection (2) of section  
 584 903.046, Florida Statutes, is amended to read:

585        903.046 Purpose of and criteria for bail determination.—

586        (2) When determining whether to release a defendant on  
 587 bail or other conditions, and what that bail or those conditions

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588 may be, the court shall consider:

589 (c) The defendant's family ties, length of residence in  
590 the community, legal residency status in the United States,  
591 employment history, financial resources, and mental condition.

592 Section 11. Section 921.245, Florida Statutes, is created  
593 to read:

594 921.245 Illegal alien multiplier; enhanced penalties.—Upon  
595 a finding by the trier of fact that the defendant committed the  
596 charged offense while the defendant was an alien and was  
597 unlawfully present in the United States, the penalty for any  
598 felony or misdemeanor, or any delinquent act or violation of law  
599 that would be a felony or misdemeanor if committed by an adult,  
600 may be enhanced. Penalty enhancement affects the applicable  
601 statutory maximum penalty only. Each of the findings required as  
602 a basis for such sentence must be found beyond a reasonable  
603 doubt. The enhancement shall be as follows:

604 (1) (a) A misdemeanor of the second degree may be punished  
605 as if it were a misdemeanor of the first degree.

606 (b) A misdemeanor of the first degree may be punished as  
607 if it were a felony of the third degree. For purposes of  
608 sentencing under this chapter and determining incentive gain-  
609 time eligibility under chapter 944, such offense shall be ranked  
610 in level 1 of the offense severity ranking chart.

611 (2) (a) A felony of the third degree may be punished as if  
612 it were a felony of the second degree.

613 (b) A felony of the second degree may be punished as if it  
614 were a felony of the first degree.

615 (c) A felony of the first degree may be punished as if it

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616 were a life felony.

617  
618 For purposes of sentencing under this chapter and determining  
619 incentive gain-time eligibility under chapter 944, such felony  
620 offense shall be ranked as provided in s. 921.0022 or s.  
621 921.0023, without regard to the penalty enhancement in this  
622 subsection.

623       Section 12. If any portion of this act is declared  
624 unconstitutional or the application of any part of this act to  
625 any person or circumstance is held invalid, the remaining  
626 portions of the act and their applicability to any person or  
627 circumstance shall remain valid and enforceable.

628       Section 13. The Legislature finds that ensuring that only  
629 those who are authorized to work in the United States are  
630 employed in this state is an overwhelming public necessity. The  
631 Legislature finds that discouraging the presence of unauthorized  
632 aliens in the state and enforcing immigration laws will promote  
633 public safety and is an overwhelming public necessity.

634       Section 14. Except as otherwise expressly provided in this  
635 act, this act shall take effect October 1, 2011.