

BILL

ORIGINAL

YEAR

1 A bill to be entitled  
 2 An act relating to ; providing an effective date.

3  
 4 Be It Enacted by the Legislature of the State of Florida:

5  
 6 Section 1. Section XXX, Florida Statutes, is created to  
 7 read:

8 XXX Short title.—This part may be cited as the "Florida  
 9 Immigration Enforcement Act."

10 Section 2. Section XXX, Florida Statutes, is created to  
 11 read:

12 XXX Intent.--

13 The Legislature finds that there is a compelling interest  
 14 in the cooperative enforcement of federal immigration laws  
 15 throughout all of Florida. The Legislature declares that the  
 16 intent of this act is to make attrition through enforcement the  
 17 public policy of all state and local government agencies in  
 18 Florida. The provisions of this act are intended to work  
 19 together to discourage and deter the unlawful entry and presence  
 20 of aliens and economic activity by persons unlawfully present in  
 21 the United States.

22 Section 3. Section XXX, Florida Statutes, is created to  
 23 read:

24 XXX Cooperation and assistance in enforcement of  
 25 immigration laws; indemnification.--

26 (1) No official or agency of this state or a county,  
 27 municipality or other political subdivision of this state may

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28 limit or restrict the enforcement of federal immigration laws to  
 29 less than the full extent permitted by federal law.

30 (2) For any lawful stop, detention or arrest made by a law  
 31 enforcement official or a law enforcement agency of this state  
 32 or of a county, municipality or other political subdivision of  
 33 this state in the enforcement of any other law or ordinance of a  
 34 county, municipality or this state where reasonable suspicion  
 35 exists that the person is an alien and is unlawfully present in  
 36 the United States, a reasonable attempt shall be made, when  
 37 practicable, to determine the immigration status of the person,  
 38 except if the determination may hinder or obstruct an  
 39 investigation. Any person who is arrested, where reasonable  
 40 suspicion exists that the person is an alien and is unlawfully  
 41 present in the United States, shall have his or her immigration  
 42 status determined before release. The person's immigration  
 43 status shall be verified with the federal government pursuant to  
 44 8 United States Code section 1373(c). A law enforcement  
 45 official or agency of this state or a county, municipality or  
 46 other political subdivision of this state may not consider race,  
 47 color or national origin in implementing the requirements of  
 48 this subsection except to the extent permitted by the United  
 49 States or Florida Constitution. A person is presumed to be  
 50 legally in the United States if the person provides to the law  
 51 enforcement officer or agency any of the following:

52 (a) A valid Florida driver license;

53 (b) A valid identification card issued by the Department  
 54 of Highway Safety and Motor Vehicles pursuant to s. 322.051,

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55 which includes any identification card issued by the Department  
 56 of Highway Safety and Motor Vehicles or its agents;

57 (c) A valid tribal enrollment card or other form of tribal  
 58 identification;

59 (d) The passport of a person from a visa waiver program  
 60 country;

61 (e) Proof of Canadian citizenship;

62 (f) If the entity requires proof of legal presence in the  
 63 United States before issuance, any valid United States federal,  
 64 state or local government issued identification.

65 (3) If an alien who is unlawfully present in the United  
 66 States is convicted of a violation of state or local law, on  
 67 discharge from imprisonment or on the assessment of any monetary  
 68 obligation that is imposed, the United States Immigration and  
 69 Customs Enforcement or the United States Customs and Border  
 70 Protection shall be immediately notified by the discharging  
 71 authority of the custodial facility or the clerk of the  
 72 assessing court.

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

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

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

88           (b) The United States Immigration and Customs Enforcement  
 89 or the United States Customs and Border protection pursuant to 8  
 90 United States Code Section 1373(c).

91           (6) Except as provided in federal law, officials or  
 92 agencies of this state and counties, municipalities and other  
 93 political subdivisions of this state may not be prohibited or in  
 94 any way be restricted from sending, receiving or maintaining  
 95 information relating to the immigration status, lawful or  
 96 unlawful, of any individual or exchanging that information with  
 97 any other federal, state or local governmental entity for the  
 98 following official purposes:

99           (a) Determining eligibility for any public benefit,  
 100 service or license provided by any federal, state, local or  
 101 other political subdivision of this state.

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 issued pursuant to a  
 105 civil or criminal proceeding in this state.

106           (c) If the person is an alien, determining whether the  
 107 person is in compliance with the federal registration laws  
 108 prescribed by Title II, Chapter 7 of the Federal Immigration and  
 109 Nationality Act.

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110 (d) Pursuant to 8 United States Code Section 1373 and 8  
 111 United States Code Section 1644.

112 (7) This section does not implement, authorize or  
 113 establish and shall not be construed to implement, authorize or  
 114 establish the Real ID Act of 2005 (p.l. 109-13, division b; 119  
 115 stat. 302), including the use of a radio frequency  
 116 identification chip.

117 (8) The Attorney General may enforce the protection of  
 118 this act if there is reasonable cause to believe that this act  
 119 has been violated. The Attorney General shall commence a civil  
 120 or administrative action and such other relief as may be  
 121 appropriate. The Attorney General may bring an action in the  
 122 appropriate court to challenge any official or agency of this  
 123 state or a county, municipality or other political subdivision  
 124 of this state that adopts or implements a policy that limits or  
 125 restricts the enforcement of this act. If there is a judicial  
 126 finding that an entity has violated this section, the court  
 127 shall order that the entity pay a civil penalty of not less than  
 128 five hundred dollars and not more than five thousand dollars for  
 129 each day that the policy has remained in effect after the filing  
 130 of an action pursuant to this subsection.

131 (9) The court shall collect the civil penalty prescribed  
 132 in subsection (8) and deposit the moneys in the Violent Crime  
 133 Investigative Emergency and Drug Control Strategy Implementation  
 134 Account within the Department of Law Enforcement Operating Trust  
 135 Fund pursuant to s. 943.042.

136 (10) The court may award court costs and reasonable  
 137 attorney fees to any official or agency of this state or a

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138 county, municipality or other political subdivision of this  
 139 state that prevails by an adjudication on the merits in a  
 140 proceeding brought pursuant to this section.

141 (11) Except in relation to matters in which the officer is  
 142 adjudged to have acted in bad faith, a law enforcement officer  
 143 is indemnified by the law enforcement officer's agency against  
 144 reasonable costs and expenses, including attorney fees, incurred  
 145 by the officer in connection with any action, suit or proceeding  
 146 brought pursuant to this section in which the officer may be a  
 147 defendant by reason of the officer being or having been a member  
 148 of the law enforcement agency.

149 (12) This section shall be implemented in a manner  
 150 consistent with federal laws regulating immigration, protecting  
 151 the civil rights of all persons and respecting the privileges  
 152 and immunities of United States citizens.

153 Section 4. Section XXX, Florida Statutes, is created to  
 154 read:

155 XXX Willful failure to complete or carry an alien  
 156 registration document; assessment; exception; authenticated  
 157 records; classification.--

158 (1) In addition to any violation of federal law, a person  
 159 is guilty of willful failure to complete or carry an alien  
 160 registration document if the person is in violation of 8 United  
 161 States Code Section 1304(e) or 1306(a).

162 (2) In the enforcement of this section, an alien's  
 163 immigration status may be determined by:

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

167 (b) The United States Immigration and Customs Enforcement  
 168 or the United States Customs and Border Protection pursuant to 8  
 169 United States Code Section 1373(c).

170 (3) A law enforcement official or agency of this state or  
 171 a county, city, town or other political subdivision of this  
 172 state may not consider race, color or national origin in the  
 173 enforcement of this section except to the extent permitted by  
 174 the United States or Florida Constitution.

175 (4) A person sentenced under this section is not eligible  
 176 for any form of discretionary early release, other than pardon  
 177 or executive clemency, or conditional medical release under s.  
 178 947.149, prior to serving the minimum sentence.

179 (5) In addition to any other penalty prescribed by law,  
 180 the court shall order the person to pay costs of incarceration.

181 (6) This section does not apply to a person who maintains  
 182 authorization from the federal government to remain in the  
 183 United States.

184 (7) Any record that relates to the immigration status of a  
 185 person is admissible in any court without further foundation or  
 186 testimony from a custodian of records if the record is certified  
 187 as authentic by the government agency that is responsible for  
 188 maintaining the record.

189 (8) A violation of this section is a misdemeanor of the  
 190 second degree punishable as provided in s. 775.082 and by a fine  
 191 not to exceed \$100, and for a first violation of this section

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192 the court shall not sentence the person to more than twenty days  
 193 in jail and for a second or subsequent violation the court shall  
 194 not sentence the person to more than thirty days in jail.

195 Section 5. Section XXX, Florida Statutes, is created  
 196 to read:

197 XXX Unlawful stopping to hire and pick up passengers for  
 198 work; unlawful application, solicitation or employment;  
 199 classification; definitions.-

200 (1) It is unlawful for an occupant of a motor vehicle that  
 201 is stopped on a street, roadway or highway to attempt to hire or  
 202 hire and pick up passengers for work at a different location if  
 203 the motor vehicle blocks or impedes the normal movement of  
 204 traffic.

205 (2) It is unlawful for a person to enter a motor vehicle  
 206 that is stopped on a street, roadway or highway in order to be  
 207 hired by an occupant of the motor vehicle and to be transported  
 208 to work at a different location if the motor vehicle blocks or  
 209 impedes the normal movement of traffic.

210 (3) It is unlawful for a person who is unlawfully present  
 211 in the United States and who is an unauthorized alien to  
 212 knowingly apply for work, solicit work in a public place or  
 213 perform work as an employee or independent contractor in this  
 214 state.

215 (4) A law enforcement official or agency of this state or  
 216 a county, city, town or other political subdivision of this  
 217 state may not consider race, color or national origin in the  
 218 enforcement of this section except to the extent permitted by  
 219 the United States or Florida Constitution.



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220 (5) In the enforcement of this section, an alien's  
 221 immigration status may be determined by:

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

225 (b) The United States Immigration and Customs Enforcement  
 226 or the United States Customs and Border Protection pursuant to 8  
 227 United States Code Section 1373(c).

228 (6) A violation of this section is a misdemeanor of the first  
 229 degree, punishable as provided in s. 775.082 or s. 775.083.

230 (7) For the purposes of this section:

231 (a) "Solicit" means verbal or nonverbal communication by a  
 232 gesture that would indicate to a reasonable person that a person  
 233 is soliciting employment.

234 (b) "Unauthorized Alien" means an alien who does not have  
 235 the legal right or authorization under federal law to work in  
 236 the United States as described in 8 United States Code Section  
 237 1324a(h)(3).

238 Section 6. Subsection (16) is added to section 901.15,  
 239 Florida Statutes, to read:

240 901.15 When arrest by officer without warrant is lawful.—A  
 241 law enforcement officer may arrest a person without a warrant  
 242 when:

243 (16) The officer has probable cause to believe that the  
 244 person to be arrested was previously convicted of a felony or  
 245 misdemeanor as defined by state statute that makes the person  
 246 removable from the United States. The person's immigration

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247 status as to removability shall be verified with the federal  
 248 government pursuant to 8 United States Code section 1373.

249 Section 7. Section XXX, Florida Statutes, is created to  
 250 read:

251 XXX Knowingly or intentionally employing unauthorized  
 252 aliens; prohibition; false and frivolous complaints; violations;  
 253 classification; license suspension and revocation; affirmative  
 254 defense.--

255 (1) The attorney general shall prescribe a complaint form  
 256 for a person to allege a violation of s. 448.09(1). The  
 257 complainant shall not be required to list the complainant's  
 258 social security number on the complaint form or to have the  
 259 complaint form notarized. On receipt of a complaint on a  
 260 prescribed complaint form that an employer allegedly knowingly  
 261 or intentionally employs an unauthorized alien, the attorney  
 262 general or county attorney shall investigate whether the  
 263 employer has violated s. 448.09(1). If a complaint is received  
 264 but is not submitted on a prescribed complaint form, the  
 265 attorney general or county attorney may investigate whether the  
 266 employer has violated s. 448.09(1). This subsection shall not  
 267 be construed to prohibit the filing of anonymous complaints that  
 268 are not submitted on a prescribed complaint form. The attorney  
 269 general or county attorney shall not investigate complaints that  
 270 are based solely on race, color or national origin. A complaint  
 271 that is submitted to a county attorney shall be submitted to the  
 272 county attorney in the county in which the alleged unauthorized  
 273 alien is or was employed by the employer. The county sheriff or  
 274 any other local law enforcement agency may assist in

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275 investigating a complaint. When investigating a complaint, the  
 276 attorney general or county attorney shall verify the work  
 277 authorization of the alleged unauthorized alien with the federal  
 278 government pursuant to 8 United States Code section 1373(c). A  
 279 state, county or local official shall not attempt to  
 280 independently make a final determination on whether an alien is  
 281 authorized to work in the United States. An alien's immigration  
 282 status or work authorization status shall be verified with the  
 283 federal government pursuant to 8 United States Code section  
 284 1373(c). A person who knowingly files a false and frivolous  
 285 complaint under this subsection is guilty of a misdemeanor of  
 286 the second degree, punishable as provided in s. 775.082 or s  
 287 775.083.

288 (2) If, after an investigation, the attorney general or  
 289 county attorney determines that the complaint is not false and  
 290 frivolous:

291 (a) The attorney general or county attorney shall notify  
 292 the United States Immigration and Customs Enforcement of the  
 293 unauthorized alien.

294 (b) The attorney general or county attorney shall notify  
 295 the local law enforcement agency of the unauthorized alien.

296 (c) The attorney general shall notify the appropriate  
 297 county attorney to bring an action pursuant to subsection (3) if  
 298 the complaint was originally filed with the attorney general.

299 (3) An action for a violation of s. 448.09(1), shall be  
 300 brought against the employer by the county attorney in the  
 301 county where the unauthorized alien employee is or was employed  
 302 by the employer. The county attorney shall not bring an action

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303 against any employer for any violation of s. 448.09(1) that  
 304 occurs before October 1, 2011. A second violation of this  
 305 section shall be based only on an unauthorized alien who is or  
 306 was employed by the employer after an action has been brought  
 307 for a violation of s. 448.09(1).

308 (4) For any court action under this section, the court  
 309 shall expedite the action, including assigning the hearing at  
 310 the earliest practicable date.

311 (5) On a finding of a violation of s. 448.09(1):

312 (a) For a first violation, as described in subparagraph  
 313 (c)1., the court:

314 1. Shall order the employer to terminate the employment of  
 315 all unauthorized aliens.

316 2. Shall order the employer to be subject to a three year  
 317 probationary period for the business location where the  
 318 unauthorized alien performed work. During the probationary  
 319 period the employer shall file quarterly reports containing the  
 320 information prescribed in s. 409.2576(3) with respect to each  
 321 new employee who is hired by the employer at the business  
 322 location where the unauthorized alien performed work.

323 3. Shall order the employer to file a signed sworn  
 324 affidavit with the county attorney within three business days  
 325 after the order is issued. The affidavit shall state that the  
 326 employer has terminated the employment of all unauthorized  
 327 aliens in this state and that the employer will not  
 328 intentionally or knowingly employ an unauthorized alien in this  
 329 state. The court shall order the appropriate agencies to  
 330 suspend all licenses subject to this subparagraph that are held

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331 by the employer if the employer fails to file a signed sworn  
 332 affidavit with the county attorney within three business days  
 333 after the order is issued. All licenses that are suspended  
 334 under this subparagraph shall remain suspended until the  
 335 employer files a signed sworn affidavit with the county  
 336 attorney. Notwithstanding any other law, on filing of the  
 337 affidavit the suspended licenses shall be reinstated immediately  
 338 by the appropriate agencies. For the purposes of this  
 339 subparagraph, the licenses that are subject to suspension under  
 340 this subparagraph are all licenses that are held by the employer  
 341 specific to the business location where the unauthorized alien  
 342 performed work. If the employer does not hold a license  
 343 specific to the business location where the unauthorized alien  
 344 performed work, but a license is necessary to operate the  
 345 employer's business in general, the licenses that are subject to  
 346 suspension under this subparagraph are all licenses that are  
 347 held by the employer at the employer's primary place of  
 348 business. On receipt of the court's order and notwithstanding  
 349 any other law, the appropriate agencies shall suspend the  
 350 licenses according to the court's order. The court shall send a  
 351 copy of the court's order to the attorney general and the  
 352 attorney general shall maintain the copy pursuant to subsection  
 353 (6) of this section.

354 4. May order the appropriate agencies to suspend all  
 355 licenses described in subparagraph 3. that are held by the  
 356 employer for a period not to exceed ten business days. The  
 357 court shall base its decision to suspend under this subparagraph  
 358 on any evidence or information submitted to it during the action

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359 for a violation of this subsection and shall consider the  
 360 following factors, if relevant:  
 361 (i) The number of unauthorized aliens employed by the  
 362 employer.  
 363 (ii) Any prior misconduct by the employer.  
 364 (iii) The degree of harm resulting from the violation.  
 365 (iv) Whether the employer made good faith efforts to  
 366 comply with any applicable requirements.  
 367 (v) The duration of the violation.  
 368 (vi) The role of the directors, officers or principals of  
 369 the employer in the violation.  
 370 (vii) Any other factors the court deems appropriate.  
 371 (b) For a second violation, as described in subparagraph  
 372 (c)3., the court shall order the appropriate agencies to  
 373 permanently revoke all licenses that are held by the employer  
 374 specific to the business location where the unauthorized alien  
 375 performed work. If the employer does not hold a license  
 376 specific to the business location where the unauthorized alien  
 377 performed work, but a license is necessary to operate the  
 378 employer's business in general, the court shall order the  
 379 appropriate agencies to permanently revoke all licenses that are  
 380 held by the employer at the employer's primary place of  
 381 business. On receipt of the order and notwithstanding any other  
 382 law, the appropriate agencies shall immediately revoke the  
 383 licenses.  
 384 (c) The violation shall be considered:  
 385 1. A first violation by an employer at a business location  
 386 if the violation did not occur during a probationary period

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387 ordered by the court under this subsection for that employer's  
 388 business location.

389 2. A second violation by an employer at a business  
 390 location if the violation occurred during a probationary period  
 391 ordered by the court under this subsection for that employer's  
 392 business location.

393 (6) The attorney general shall maintain copies of court  
 394 orders that are received pursuant to subsection (5) and shall  
 395 maintain a database of the employers and business locations that  
 396 have a first violation of s. 448.09(1) and make the court orders  
 397 available on the attorney general's website.

398 (7) On determining whether an employee is an unauthorized  
 399 alien, the court shall consider only the federal government's  
 400 determination pursuant to 8 United States Code Section 1373(c).  
 401 The federal government's determination creates a rebuttable  
 402 presumption of the employee's lawful status. The court may take  
 403 judicial notice of the federal government's determination and  
 404 may request the federal government to provide automated or  
 405 testimonial verification pursuant to 8 United States Code  
 406 section 1373(c).

407 (8) For the purposes of this section, proof of verifying  
 408 the employment authorization of an employee through the Federal  
 409 E-Verify program creates a rebuttable presumption that an  
 410 employer did not knowingly employ an unauthorized alien.

411 (9) For the purposes of this section, an employer that  
 412 establishes that it has complied in good faith with the  
 413 requirements of 8 United States Code section 1324a(b)  
 414 establishes an affirmative defense that the employer did not

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415 knowingly employ an unauthorized alien. An employer is  
 416 considered to have complied with the requirements of 8 United  
 417 States Code section 1324a(b), notwithstanding an isolated,  
 418 sporadic or accidental technical or procedural failure to meet  
 419 the requirements, if there is a good faith attempt to comply  
 420 with the requirements.

421 (10) It is an affirmative defense to a violation of s.  
 422 448.09(1) that the employer was entrapped. To claim entrapment,  
 423 the employer must admit by the employer's testimony or other  
 424 evidence the substantial elements of the violation. An employer  
 425 who asserts an entrapment defense has the burden of proving the  
 426 following by a preponderance of the evidence:

427 (a) The idea of committing the violation started with law  
 428 enforcement officers or their agents rather than with the  
 429 employer.

430 (b) The law enforcement officers or their agents urged and  
 431 induced the employer to commit the violation.

432 (c) The employer was not predisposed to commit the  
 433 violation before the law enforcement officers or their agents  
 434 urged and induced the employer to commit the violation.

435 (11) An employer does not establish entrapment if the  
 436 employer was predisposed to violate s. 448.09(1) and the law  
 437 enforcement officers or their agents merely provided the  
 438 employer with an opportunity to commit the violation. It is not  
 439 entrapment for law enforcement officers or their agents merely  
 440 to use a ruse or to conceal their identity. The conduct of law  
 441 enforcement officers and their agents may be considered in  
 442 determining if an employer has proven entrapment.



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443 Section 8. Section XXX, Florida Statutes, is created to  
 444 read:

445 XXX Verification of employment eligibility; E-Verify  
 446 program; economic development incentives; list of registered  
 447 employers.--

448 (1) After October 1, 2011, every employer, after hiring an  
 449 employee, shall verify the employment eligibility of the  
 450 employee through the Federal E-Verify program and shall keep a  
 451 record of the verification for the duration of the employee's  
 452 employment or at least three years, whichever is longer.

453 (2) In addition to any other requirement for an employer  
 454 to receive an economic development incentive from a government  
 455 entity, the employer shall register with and participate in the  
 456 Federal E-Verify program. Before receiving the economic  
 457 development incentive, the employer shall provide proof to the  
 458 government entity that the employer is registered with and is  
 459 participating in the E-Verify program. If the government entity  
 460 determines that the employer is not complying with this  
 461 subsection, the government entity shall notify the employer by  
 462 certified mail of the government entity's determination of  
 463 noncompliance and the employer's right to appeal the  
 464 determination. On a final determination of noncompliance, the  
 465 employer shall repay all monies received as an economic  
 466 development incentive to the government entity within thirty  
 467 days of the final determination. For the purposes of this  
 468 subsection:

469 (a) "Economic development incentive" means any grant, loan  
 470 or performance-based incentive from any government entity that

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471 is awarded after September 30, 2011. Economic development  
 472 incentive does not include any tax provision under chapters 191  
 473 through 221.

474 (b) "Government entity" means this state and any political  
 475 subdivision of this state that receives and uses tax revenues.

476 (3) Every three months the attorney general shall request  
 477 from the United States Department of Homeland Security a list of  
 478 employers from this state that are registered with the Federal  
 479 e-verify program. On receipt of the list of employers, the  
 480 attorney general shall make the list available on the attorney  
 481 general's website.

482 Section 9. Section XXX, Florida Statutes, is created to  
 483 read:

484 XXX Severability, implementation and construction.--

485 (1) If a provision of this act or its application to any  
 486 person or circumstance is held invalid, the invalidity does not  
 487 affect other provisions or applications of the act that can be  
 488 given effect without the invalid provision or application, and  
 489 to this end the provisions of this act are severable.

490 (2) The terms of this act regarding immigration shall be  
 491 construed to have the meanings given to them under federal  
 492 immigration law.

493 (3) This act shall be implemented in a manner consistent  
 494 with federal laws regulating immigration, protecting the civil  
 495 rights of all persons and respecting the privileges and  
 496 immunities of United States citizens.

497 (4) Nothing in this act shall implement or shall be  
 498 construed or interpreted to implement or establish the REAL ID

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499 Act of 2005 (P.L. 109-13, division B; 119 Stat. 302) including  
 500 the use of a radio frequency identification chip.

501 Section 10. Section xxx, Florida Statutes, is created to  
 502 read:

503 XXX Illegal alien multiplier; enhanced penalties.—Upon a  
 504 finding by the factfinder that the defendant committed the  
 505 charged offense while the defendant is an alien and is  
 506 unlawfully present in the United States, the penalty for any  
 507 felony or misdemeanor, or any delinquent act or violation of law  
 508 which would be a felony or misdemeanor if committed by an adult,  
 509 may be enhanced. Penalty enhancement affects the applicable  
 510 statutory maximum penalty only. Each of the findings required as  
 511 a basis for such sentence shall be found beyond a reasonable  
 512 doubt. The enhancement will be as follows:

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

515 (b) A misdemeanor of the first degree may be punished as  
 516 if it were a felony of the third degree. For purposes of  
 517 sentencing under chapter 921 and determining incentive gain-time  
 518 eligibility under chapter 944, such offense is ranked in level 1  
 519 of the offense severity ranking chart. The criminal gang  
 520 multiplier in s. 921.0024 does not apply to misdemeanors  
 521 enhanced under this paragraph.

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

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

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

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527 | were a life felony.

528

529 | For purposes of sentencing under chapter 921 and determining  
 530 | incentive gain-time eligibility under chapter 944, such felony  
 531 | offense is ranked as provided in s. 921.0022 or s. 921.0023, and  
 532 | without regard to the penalty enhancement in this subsection.--

533 |         Section 11. Paragraph (c) of subsection (2) of section  
 534 | 903.046, Florida Statutes, is amended to read:

535 |         903.046 Purpose of and criteria for bail determination.--

536 |         (2) When determining whether to release a defendant on  
 537 | bail or other conditions, and what that bail or those conditions  
 538 | may be, the court shall consider:

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

542 |         Section 12. Subsection (1) of section 921.0024, Florida  
 543 | Statutes, is amended to read:

544 |         921.0024 Criminal Punishment Code; worksheet computations;  
 545 | scoresheets.--

546 |         (1) The Criminal Punishment Code worksheet is used to  
 547 | compute the subtotal and total sentence points as follows:

548 |                                 FLORIDA CRIMINAL PUNISHMENT CODE

549 |   WORKSHEET

550 |   OFFENSE SCORE

551

  Primary Offense

552

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553	10	116	=	_____
554	9	92	=	_____
555	8	74	=	_____
556	7	56	=	_____
557	6	36	=	_____
558	5	28	=	_____
559	4	22	=	_____
560	3	16	=	_____
561	2	10	=	_____
562	1	4	=	_____

564  
565  
566  
Total

Additional Offenses

Level	Sentence Points		Counts		Total
568	10	58	x	_____	= _____
569	9	46	x	_____	= _____
570	8	37	x	_____	= _____
571	7	28	x	_____	= _____
572	6	18	x	_____	= _____

BILL			ORIGINAL		YEAR
573	5	5.4	x	_____	= _____
574	4	3.6	x	_____	= _____
575	3	2.4	x	_____	= _____
576	2	1.2	x	_____	= _____
577	1	0.7	x	_____	= _____
578	M	0.2	x	_____	= _____
579					

Total

Victim Injury

Level	Sentence Points		Number		Total
2nd degree murder-death	240	x	_____	=	_____
Death	120	x	_____	=	_____
Severe	40	x	_____	=	_____
Moderate	18	x	_____	=	_____
Slight	4	x	_____	=	_____
Sexual penetration	80	x	_____	=	_____
Sexual contact	40	x	_____	=	_____

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Total

Primary Offense + Additional Offenses + Victim Injury =

TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	Sentence Points		Number		Total
10	29	x	_____	=	_____
9	23	x	_____	=	_____
8	19	x	_____	=	_____
7	14	x	_____	=	_____
6	9	x	_____	=	_____
5	3.6	x	_____	=	_____
4	2.4	x	_____	=	_____
3	1.6	x	_____	=	_____
2	0.8	x	_____	=	_____
1	0.5	x	_____	=	_____
M	0.2	x	_____	=	_____

Total

BILL	ORIGINAL	YEAR
613	TOTAL OFFENSE SCORE _____	
614	TOTAL PRIOR RECORD SCORE _____	
615	LEGAL STATUS _____	
616	COMMUNITY SANCTION VIOLATION _____	
617	PRIOR SERIOUS FELONY _____	
618	PRIOR CAPITAL FELONY _____	
619	FIREARM OR SEMIAUTOMATIC WEAPON _____	
620		SUBTOTAL _____
621	PRISON RELEASEE REOFFENDER	
622	(no) (yes) _____	
623	VIOLENT CAREER CRIMINAL (no) (yes) _____	
624	HABITUAL VIOLENT OFFENDER	
625	(no) (yes) _____	
626	HABITUAL OFFENDER (no) (yes) _____	
627	DRUG TRAFFICKER (no) (yes) (x	
628	multiplier) _____	
629	LAW ENF. PROTECT. (no) (yes) (x	
630	multiplier) _____	
631	MOTOR VEHICLE THEFT (no) (yes) (x	
632	multiplier) _____	
633	CRIMINAL GANG OFFENSE (no) (yes) (x	
634	multiplier) _____	
635	<u>OFFENSE COMMITTED BY ILLEGAL ALIEN</u> (no) (yes) (x	
636	<u>multiplier)</u> _____	
637	DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)	
638	(x multiplier) _____	
639	_____	



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640 TOTAL SENTENCE POINTS \_\_\_\_\_

641 (b) WORKSHEET KEY:

642 Legal status points are assessed when any form of legal status  
 643 existed at the time the offender committed an offense before the  
 644 court for sentencing. Four (4) sentence points are assessed for  
 645 an offender's legal status.

646 Community sanction violation points are assessed when a  
 647 community sanction violation is before the court for sentencing.  
 648 Six (6) sentence points are assessed for each community sanction  
 649 violation and each successive community sanction violation,  
 650 unless any of the following apply:

651 1. If the community sanction violation includes a new  
 652 felony conviction before the sentencing court, twelve (12)  
 653 community sanction violation points are assessed for the  
 654 violation, and for each successive community sanction violation  
 655 involving a new felony conviction.

656 2. If the community sanction violation is committed by a  
 657 violent felony offender of special concern as defined in s.  
 658 948.06:

659 a. Twelve (12) community sanction violation points are  
 660 assessed for the violation and for each successive violation of  
 661 felony probation or community control where:

662 (I) The violation does not include a new felony  
 663 conviction; and

664 (II) The community sanction violation is not based solely  
 665 on the probationer or offender's failure to pay costs or fines

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666 | or make restitution payments.

667 |       b. Twenty-four (24) community sanction violation points  
668 | are assessed for the violation and for each successive violation  
669 | of felony probation or community control where the violation  
670 | includes a new felony conviction.

671 | Multiple counts of community sanction violations before the  
672 | sentencing court shall not be a basis for multiplying the  
673 | assessment of community sanction violation points.

674 | Prior serious felony points: If the offender has a primary  
675 | offense or any additional offense ranked in level 8, level 9, or  
676 | level 10, and one or more prior serious felonies, a single  
677 | assessment of thirty (30) points shall be added. For purposes of  
678 | this section, a prior serious felony is an offense in the  
679 | offender's prior record that is ranked in level 8, level 9, or  
680 | level 10 under s. 921.0022 or s. 921.0023 and for which the  
681 | offender is serving a sentence of confinement, supervision, or  
682 | other sanction or for which the offender's date of release from  
683 | confinement, supervision, or other sanction, whichever is later,  
684 | is within 3 years before the date the primary offense or any  
685 | additional offense was committed.

686 | Prior capital felony points: If the offender has one or more  
687 | prior capital felonies in the offender's criminal record, points  
688 | shall be added to the subtotal sentence points of the offender  
689 | equal to twice the number of points the offender receives for  
690 | the primary offense and any additional offense. A prior capital  
691 | felony in the offender's criminal record is a previous capital

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692 felony offense for which the offender has entered a plea of nolo  
 693 contendere or guilty or has been found guilty; or a felony in  
 694 another jurisdiction which is a capital felony in that  
 695 jurisdiction, or would be a capital felony if the offense were  
 696 committed in this state.

697 Possession of a firearm, semiautomatic firearm, or machine gun:  
 698 If the offender is convicted of committing or attempting to  
 699 commit any felony other than those enumerated in s. 775.087(2)  
 700 while having in his or her possession: a firearm as defined in  
 701 s. 790.001(6), an additional eighteen (18) sentence points are  
 702 assessed; or if the offender is convicted of committing or  
 703 attempting to commit any felony other than those enumerated in  
 704 s. 775.087(3) while having in his or her possession a  
 705 semiautomatic firearm as defined in s. 775.087(3) or a machine  
 706 gun as defined in s. 790.001(9), an additional twenty-five (25)  
 707 sentence points are assessed.

708 Sentencing multipliers:

709 Drug trafficking: If the primary offense is drug trafficking  
 710 under s. 893.135, the subtotal sentence points are multiplied,  
 711 at the discretion of the court, for a level 7 or level 8  
 712 offense, by 1.5. The state attorney may move the sentencing  
 713 court to reduce or suspend the sentence of a person convicted of  
 714 a level 7 or level 8 offense, if the offender provides  
 715 substantial assistance as described in s. 893.135(4).

716 Law enforcement protection: If the primary offense is a  
 717 violation of the Law Enforcement Protection Act under s.

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718 775.0823(2), (3), or (4), the subtotal sentence points are  
 719 multiplied by 2.5. If the primary offense is a violation of s.  
 720 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
 721 are multiplied by 2.0. If the primary offense is a violation of  
 722 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 723 Protection Act under s. 775.0823(10) or (11), the subtotal  
 724 sentence points are multiplied by 1.5.

725 Grand theft of a motor vehicle: If the primary offense is grand  
 726 theft of the third degree involving a motor vehicle and in the  
 727 offender's prior record, there are three or more grand thefts of  
 728 the third degree involving a motor vehicle, the subtotal  
 729 sentence points are multiplied by 1.5.

730 Offense related to a criminal gang: If the offender is convicted  
 731 of the primary offense and committed that offense for the  
 732 purpose of benefiting, promoting, or furthering the interests of  
 733 a criminal gang as prohibited under s. 874.04, the subtotal  
 734 sentence points are multiplied by 1.5.

735 Domestic violence in the presence of a child: If the offender is  
 736 convicted of the primary offense and the primary offense is a  
 737 crime of domestic violence, as defined in s. 741.28, which was  
 738 committed in the presence of a child under 16 years of age who  
 739 is a family or household member as defined in s. 741.28(3) with  
 740 the victim or perpetrator, the subtotal sentence points are  
 741 multiplied by 1.5.

742 Crimes committed by an undocumented or illegal alien: If the  
 743 primary offense is an offense committed by an undocumented or

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744 | illegal alien, the subtotal sentence points are multiplied by

745 | 1.5

746 | Section 13. This act shall take effect upon becoming law.