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FL 1718: Florida Anti-Immigrant Legislation Will Affect All Florida Residents, Not Just the Undocumented

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On May 9, 2023, Florida Governor Ron DeSantis signed [Senate Bill 1718 \(FL 1718\)](#) into law. FL 1718 is a comprehensive effort to restrict the ability of undocumented individuals to live and work in Florida by, *inter alia*, dramatically enhancing the ability of state law enforcement to enforce immigration laws, requiring hospitals to maintain data on patients' immigration status, mandating the use of E-Verify by Florida employers with over 25 employees, restricting access to Florida drivers licenses (as well as State Bar licenses), and adding state civil and criminal penalties for violations of its provisions. A summary of the major provisions of FL 1718, **which will take effect on July 1, 2023**, is as follows:

FL 1718 criminalizes the act of transporting an undocumented individual into Florida.

1. Makes it "human smuggling" and a felony for a person to knowingly and willfully transport into Florida an individual, including a minor, whom the person knows, or reasonably should know, has entered the United States in violation of law and who has not been inspected by federal immigration authorities since entry. Pursuant to this provision, a lawful permanent resident parent who transports into Florida her child who has not been inspected would be chargeable with a second-degree felony (up to 15 years in prison).
2. The legislation does **NOT** criminalize: living with, sheltering, or renting space to family, friends, or other individuals who are undocumented; concealing, harboring, or shielding from detection undocumented individuals; or transporting undocumented individuals **within** the state.
3. Expands scope of Florida's RICO statute to include "human smuggling" as "a racketeering activity" which could make it the basis for a racketeering charge (requires a pattern of racketeering activity) which is a first-degree felony punishable by up to 30 years in prison and a \$10,000 fine.
4. While FL 1718 makes transport of undocumented individuals into Florida a felony, it nevertheless appropriates \$12 million from Florida's General Revenue Fund to be used for the Governor's "unauthorized alien transport program" enabling Florida to transport undocumented individuals into another state.

FL 1718 requires hospitals to collect immigration status information from patients.

1. Requires hospitals accepting Medicaid to ask, on patient admission/registration forms, whether the patient is a U.S. citizen or lawfully present in the United States or is not lawfully present in the United States. Requires a caveat on forms stating that the response will not affect patient care or result in a report of the patient's immigration status to immigration authorities. Patients may decline to answer and forms must include an option that states "decline to answer."

2. Requires hospitals to submit quarterly reports to the Florida Agency for Health Care Administration containing response data for the previous quarter. No patient personal information is required for these reports.
3. Requires the Florida Agency for Health Care Administration to submit an annual report to the Governor and the Legislature containing response data by March 1st of each year as well as estimates on the costs of uncompensated care for individuals who are not lawfully present in the United States, the impact of uncompensated care on the cost or ability of hospitals to provide services to the public, and hospital funding needs.

In addition to requirements of federal law, FL 1718 requires Florida employers to document employment verification procedures for state law purposes, mandates E-Verify participation for most Florida employers and creates separate penalties for violations.

1. Makes it a violation of state law for any person to knowingly employ, hire, recruit, or refer, either for themselves or on behalf of another, for private or public employment a foreign national who is not authorized to work in the United States. Creates escalating penalty provisions for violations that, depending on number of undocumented workers and frequency of violations, could result in complete revocation of an employer's state business license.
2. Provides **criminal penalties** (\$5,000 fine plus up to five years in prison) for a person who knowingly uses a false identification document or who fraudulently uses another person's identification document for the purpose of obtaining employment, if the person using the document is not authorized to work.
3. Prohibits an employer from continuing to employ an undocumented worker after obtaining knowledge that a person is or has become an undocumented worker;
4. Beginning on **July 1, 2023**, requires employers to verify each new employee's employment eligibility within three business days after the first day the new employee begins working for pay.
5. Requires private employers with **25 or more employees** to use E-Verify for all new employees and retain a copy of the documentation provided for E-Verify as well as the official verification generated E-Verify for at least three years.
6. Requires employers to certify use of E-Verify on unemployment compensation or reemployment assistance system returns; public agencies also required to use the E-Verify to verify a new employee's employment eligibility.
7. Enforcement: Authorizes state law enforcement agencies to request copies of documentation relied upon by the employer for employment verification purposes.
 - a. Beginning **July 1, 2024**, state law enforcement agencies are authorized to perform random audits of businesses and, if it is determined an employer is not complying with employment verification obligations, provide the employer with 30 days to cure noncompliance;
 - b. Imposes \$1,000 per day fine on employers found to have failed to use E-Verify three times in a 24-month period, until the employer provides proof that the noncompliance is cured. Noncompliance also constitutes grounds for the suspension of all state business licenses until the noncompliance is cured.
8. Public agencies may not contract with a private entities unless each party, including subcontractors, registers with E-Verify. A public agency may terminate a contract if it has a good faith belief that the contracting entity knowingly violated the unauthorized employment provisions of the statute, without the termination constituting a breach of contract.

FL 1718 restricts access to Florida driver's and professional licenses.

1. Prohibits counties and municipalities from funding the issuance of identification documents to an individual who does not provide proof of lawful presence in the United States. Documents may still be issued, but no government funding is permitted.
2. Driver's licenses issued by other states to "undocumented immigrants unable to prove lawful presence" when the license is issued are invalid in Florida. Law enforcement officers and authorized representatives of Florida Highway Safety and Motor Vehicles (FL HSMV) must issue a citation to any person driving with such a license. FL DHSMV is required to maintain a list on its website of out-of-state classes of driver licenses that are invalid in Florida. There are currently [19 states](#) that issue drivers licenses on this basis.
3. Effective Nov. 1, 2028, repeals statutory provision allowing DACA recipients and certain other undocumented individuals to be admitted to the Florida Bar but does not affect the validity of any license to practice law issued pursuant to that subsection before November 1, 2028.

FL 1718 empowers the state to participate in the enforcement of federal immigration laws.

1. Grants Florida's Chief of Domestic Security (a role created to oversee anti-terrorism efforts post 9/11) authority to coordinate "immigration enforcement actions" in assisting the federal government, effectively including immigration enforcement activities under its statutory counter-terrorism mandate. Also, FL 1718 requires the Florida Department of Law Enforcement to coordinate and direct the law enforcement, initial emergency, and other initial responses in connection with federal immigration law enforcement and related immigration enforcement activities in or affecting Florida.
2. Requires state law enforcement agencies who have "custody of a person because of the "issuance of an immigration detainer by a federal immigration agency" to take DNA samples from the person.
3. Requires cooperation and assistance with enforcement of federal immigration laws within or affecting Florida. Prohibits a state entity, local governmental entity, or law enforcement agency from restricting a law enforcement agency from sending employment eligibility information to a federal immigration agency.

While the full impact of FL 1718 on Florida residents is difficult to quantify, its impact on the state's economy is likely to be devastating. A [2019 report](#) by the Migration Policy Institute estimates that there are over 700,000 undocumented individuals in the Florida workforce and that almost one in four workers in the construction industry are undocumented. Similarly, a 2021 report the [New American Economy Research Fund](#) indicated that approximately 42% of Florida's farm workers are undocumented.

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