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1 A bill to be entitled

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

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

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26 Section 1. Section 943.0536, Florida Statutes, is created
27 to read:

28 943.0536 Enforcement of immigration laws.-

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

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

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

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

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

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

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

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

62 1. A valid Florida driver's license;

63 2. A valid Florida identification card;

64 3. A valid tribal enrollment card or other form of tribal
65 identification; or

66 4. Any valid United States federal, state, or local
67 identification, if the entity providing the identification
68 requires proof of legal presence in the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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