

Repeal Legislation that Criminalizes Helping Undocumented People

Sponsored by Sen. Víctor Torres (FL)

WHEREAS, the Florida State Legislature recently enacted legislation, taking effect July 1, 2023, that criminalizes helping undocumented people and delegates primary enforcement to an official whose role was created to oversee anti-terrorism efforts post 9/11, all of this raising alarm due to its negative impact on immigrants in Florida and the Nation as a whole; and,

WHEREAS, Florida Senate Bill 1718 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. A lawful permanent resident who transports their uninspected child into Florida would commit a second-degree felony (up to 15 years in prison);¹ and,

WHEREAS, the undocumented immigrants in question also include the thousands of Dreamers who are not covered by DACA because they were brought to the United States after June 2007, including some 13,000 Florida Dreamers who graduated high school this year and could be simply returning home from college or vacationing with loved ones;² and,

WHEREAS, enforcing this law would cost the state up to \$481,000 per person convicted of the second-degree felony;³ and,

WHEREAS, the Florida law also requires hospitals to ask about immigration status and report when they help undocumented people;⁴ and,

¹ Bill text available at <https://www.flsenate.gov/Session/Bill/2023/1718?pref=full>. And see, “AILA - FL 1718: Florida Anti-Immigrant Legislation Will Affect All Florida Residents, Not Just the Undocumented.” *American Immigration Lawyers Association*. n.d. Web. 12 July 2023. Available at <https://www.aila.org/advo-media/aila-practice-pointers-and-alerts/fl-1718-florida-anti-immigrant-legislation>

² Fwd.us, *The Post-DACA Generation is Here: Nearly all this year’s 120,000 undocumented new high school graduates are ineligible for the policy* (May 23, 2023). Available at <https://www.fwd.us/news/undocumented-high-school-graduates/>

³ “Florida HB 1617/SB 1718: Potential Economic and Fiscal Impact.” *FPI Home*. n.d. Web. 12 July 2023. Available at <https://www.floridapolicy.org/posts/florida-hb-1617-sb-1718-potential-economic-and-fiscal-impact>

⁴ *Ibid.* (It 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.” 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. 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.)

WHEREAS, Florida Senate Bill 1718 also requires state law enforcement agencies who have custody of a person, including minors, because of the “issuance of an immigration detainer by a federal immigration agency” to take DNA samples from the person;⁵ and,

WHEREAS, SB 1718 also bans community IDs by prohibiting local governments from using public funds in their issuance to an individual who does not provide proof of lawful presence in the United States, including mandating that the state’s DMV maintain a list on its website of out-of-state classes of driver licenses that are invalid in Florida because they are lawfully issued to undocumented immigrants;⁶ and,

WHEREAS, SB 1718 also prospectively repeals a statutory provision allowing DACA recipients and certain other undocumented individuals to be admitted to the Florida Bar after November 1, 2028,⁷ despite this Caucus’s contrary request in [Resolution 2019-05, Enacting Professional and Occupational Testing and Licensing for Dreamers](#); and,

WHEREAS, Florida’s SB 1718 also imposes new E-Verify requirements on employers beyond the requirements of federal law and creates escalating penalty provisions for violations that, depending on the number of undocumented workers and frequency of violations, could result in complete revocation of an employer’s state business license. It authorizes state law enforcement to perform random audits of businesses to inspect copies of documentation used for verification purposes. Public agencies may not contract or continue existing contracts with private entities unless each party, including subcontractors, registers with E-Verify;⁸ and,

WHEREAS, an estimated 10% of the workforce of the six industries that would be most impacted is undocumented: (1) Construction; (2) Professional, Scientific, Management, Administrative, and Waste Management Services; (3) Accommodation and Food Services, Arts, Entertainment, and Recreation; (4) Retail Trade; (5) Other Services; and (6) Agriculture. The account for 25 percent of Florida’s gross domestic product (GDP);⁹ and,

⁵ See note 1.

⁶ SB 1718 and *American Immigration Lawyers Association*, *supra* n. 1. (Documents may still be issued, but no government funding is permitted. 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 driver’s licenses on this basis.)

⁷ SB 1718 and *American Immigration Lawyers Association*, *supra* n. 1.

⁸ *Ibid.*

⁹ “Florida HB 1617/SB 1718: Potential Economic and Fiscal Impact.” *FPI Home*. n.d. Web. 12 July 2023. Available at <https://www.floridapolicy.org/posts/florida-hb-1617-sb-1718-potential-economic-and-fiscal-impact>

WHEREAS, as this Caucus has repeatedly stated, Dreamers “were brought-in a time of their lives where they were too young to understand the concept of borders or immigration. They were raised with the same American values and motivation to pursue the American Dream as all Americans.”¹⁰ Florida’s SB 1718 would criminalize their friends, loved ones, employers and associates who may have had nothing to do with their immigration situation merely for traveling with or employing these Americans; and,

WHEREAS, Florida’s SB 1718 also criminalizes the friends, loved ones, employers and associates of undocumented farmworkers and others who served as essential workers during the Covid-19 pandemic, putting their lives at risk for our safety, despite the fact that this Caucus has called for the right of residency and naturalization for them and immunity from adverse action for their employers.¹¹

THEREFORE, BE IT RESOLVED, that the National Hispanic Caucus of State Legislators condemns the policies enacted by the Florida State Legislature in SB 1718, and any similar policies, that disrespect the sacrifice of undocumented workers and the American upbringing of Dreamers and needlessly criminalize other Americans who routinely interact with them and with other undocumented immigrants, turning all of them into immigration enforcers for fear of losing their own liberty.

¹⁰ NHCSL Resolution 2017-18, [Regarding the Impact of the Deferred Action for Childhood Arrivals Program on Educational Attainment and Community Stability](#)

¹¹ NHCSL Resolution 2020-01, [Grant residency and a path to citizenship to COVID-19 farmworkers and other essential pandemic workers](#)