

Florida SB 1718: E-Verify and Employment-Related Provisions



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

Information on a new Florida law from CLINIC's State and Local Project

For information on other sections of the law, please visit: bit.ly/FloridaSB1718

Overview of Provisions in the Law

- Starting July 1, 2023, it is a third-degree felony for an “alien who is not duly authorized to work by the immigration laws of the United States” to knowingly use a false identification or fraudulently use someone else’s identification for the purpose of obtaining employment.
- The following penalties may be imposed by the Florida Department of Economic Opportunity (DEO) if an individual knowingly employs, hires, recruits, or refers someone for employment who does not have work authorization:
 - Require repayment of any economic development incentive;
 - Place the employer on a 1-year probation period where the employer reports quarterly to the DEO;
 - If a violation occurs within 24 months of another violation, the DEO can revoke or suspend all licenses issued by a licensing agency subject to Chapter 120 of the Florida Statutes.
- Starting July 1, 2023, all private employers with 25 or more employees must use the E-Verify system to verify a **new** employee’s employment eligibility.
 - Verification needs to occur within three business days of the employee beginning to work for pay.
 - Even if E-Verify is unavailable during those three business days, the employer still needs to complete an Employment Eligibility Verification form (I-9).
 - Verification and other documentation need to be kept for at least three years.
 - Beginning on July 1, 2024, if an employer failed to use E-Verify three or more times in any 24-month period, the DEO may fine that employer \$1,000 per day from the date the employer failed to use E-Verify.
 - Each employer needs to certify E-Verify system use through the tax service provider each year.
- A public agency must require contractors and subcontractors to register and use E-Verify. Subcontractors need to provide contractors who hire them with an affidavit stating they do not employ, contract with, or subcontract with an “unauthorized alien.”
- An employer may not continue to employ someone after they obtain knowledge that a person is or has become “an unauthorized alien.”

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Want more information on CLINIC's State and Local Immigration Project? Contact Viviana Westbrook at vwestbrook@cliniclegal.org

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Who Is Impacted

- Migrants who do not have valid work authorization in the United States.
- Public agencies, contractors, and subcontractors.
- Private employers with 25 or more employees.
- Workers, whether migrant or citizen, who are misidentified as being ineligible to work by E-Verify, as it is a problematic system that issues many erroneous results. For more information, please see [CLINIC's resource](#) on E-Verify.

Important Information for the Community

- This section very specifically refers to “unauthorized alien” and defines it as someone who is “not authorized under federal law to be employed in the United States.” It is important to note that many DACA recipients are undocumented migrants BUT they have valid work permits through DACA. That means that those authorized to work, including DACA recipients, will not be impacted by this part of the law.
- This section applies to an “employee.” An employee is someone filling a “permanent position.” Permanent position is not defined. There is also no specific carveout for agricultural workers.
- There are two exceptions listed in the law. The first is someone hired for “casual labor” for work performed entirely “within a private residence.” Although not explicitly listed, this most likely includes house cleaners, caregivers/personal care aides, private home and care for children, and other domestic workers that meet Section 443.036, Florida Statutes, definition of “[casual labor](#).”
- The second exception is an [independent contractor](#).

Actions to Take

- Individuals, non-profits, faith groups, and others should track any chilling effects this section has on the workforce, as well as any faulty E-Verify results.
- Migrants who have been erroneously identified by employers as not having work authorization can call the worker hotline (1-800-255-7688) of the [Immigrant and Employee Rights Section](#) of the Civil Rights Division of the DOJ.

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