



Meeting Agenda
Thursday, March 6, 2025

7:00 PM

REGULAR MEETING

Cocoa Beach Country Club
5000 Tom Warriner Blvd.
Cocoa Beach, 32931

WELCOME

Meeting re-broadcasts on: Spectrum - Channel 499 and www.cityofcocoabeach.com.
Meeting Video Archives: www.cityofcocoabeach.com

Packets: Packets are on the City's website (www.cityofcocoabeach.com) and at Commission meetings

Rules of Order: Robert's Rules of Order and the Florida Sunshine Law govern the conduct of our meeting

Speaking Courtesy Rules:

- The Commission accepts relevant comments.
- A time limit of three minutes is imposed on each speaker. If speaking for a group, the Commission may grant an additional three minutes
- Please direct comments and questions through the Mayor
- Complete speaker cards are required for each of the items you wish to address. Submit the card to the City Clerk prior to the introduction of the item. Speaker Cards are available in the rear of the Commission Room and in the City Clerk's office prior to the meeting. The purpose of the card is to obtain the spelling of your name, contact information if follow-up is needed, and provide for efficient meeting administration
- Upon being recognized by the Mayor, please approach the dais, state your name and address, and speak into the microphone

Approval Of Order Of Business:

Note: Members of the public, Commission and Staff may remove items from the Consent Agendas, if they wish to discuss them. Requests for removal need to be made known to the City Commission under the Approval of the Order of Business, at the beginning of the meeting

Appealing a Decision:

Any person desiring to appeal any decision made by the City Commission, with respect to any matter considered at such meeting or hearing, will need a record of the proceedings and for such purposes must ensure that a verbatim record and transcript of the proceeding is made in a form acceptable for official court proceedings, which record includes the testimony and evidence upon which the appeal is to be based. It shall be the responsibility of the person desiring to appeal any decision to prepare a verbatim record and transcript at his/her own expense as the City does not provide one

American with Disabilities Act:

ATTN: PERSONS WITH DISABILITIES. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations to participate in this proceeding shall, at least forty-eight (48) hours prior to the meeting, contact the Office of the City Clerk at (321) 868-3286; Florida Relay Service (800) 955-8771 (TDD); or (800) 955-8770 (Voice) or 711.

THANK YOU for participating in your Cocoa Beach City Government.

A. MEETING CALLED TO ORDER

1. Pledge of Allegiance
2. Invocation by Pastor Keith Capizzi, Club Zion
3. Roll Call

B. APPROVAL OF THE AGENDA

(Note: Members of the public, Commission and Staff may remove items from the Consent Agendas if they wish to discuss them. Requests for removal need to be made known to the City Commission under the Approval of the Order of Business, at the beginning of the meeting.)

C. SPECIAL PRESENTATIONS

1. Proclamation - Ancient order of Hibernians
Keith Reynolds attending to accept

D. PUBLIC COMMENTS

Comments will be heard on items that do not appear on the agenda of this meeting. Citizens will limit their comments to three (3) minutes. Per Commission Procedures, the City Commission will not take any action or discuss items brought up under the "Public Comment" section of the agenda. The City Commission may schedule such items as regular agenda items and act upon them in the future.

E. STAFF REPORTS AND ANNOUNCEMENTS

F. CITY ATTORNEY REPORTS AND ANNOUNCEMENTS

G. CITY COMMISSION REPORTS AND ANNOUNCEMENTS

H. CONSENT AGENDA

1. Approve the Interlocal Agreement between the Space Coast Transportation Planning Organization (TPO), FDOT and Brevard County municipalities in reference to the TPO to provide transportation planning services, to include the Central Florida Expressway Authority. Brevard County is a member of the Central Florida Expressway Board. The Central Florida Expressway Authority has a vital and increasing role in the transportation facilities and services in Brevard County.
Staff Representative: Wayne Carragino, City Manager
2. Approve a 63-month leasing agreement with Dex Printing. The agreement includes print management services, equipment and maintenance. This agreement has a cost savings of \$17,873.04 annually and will save a total of \$93,833.46 over the entire leasing period from the previous agreement. Annual cost is \$76,008 for a total of \$399,042 over 63 months. This is a budgeted item.
Staff Representative: Kevin Perez, Informational Technology Director
3. SUSTAINABLE LAND ADVISORY COMMITTEE
Appoint Eric Belaski to serve a term ending November 2028 (Seat 3 - Commissioner Tumulty)
Staff Representative: Karin Grooms, City Clerk
4. Authorize the City Manager to sign an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the Cocoa Beach Police Department, pursuant to which ICE delegates to nominated, trained, and certified officers or employees of the Cocoa Beach Police Department, the authority to perform certain immigration enforcement functions.
Staff Representative: Wes Mullins, Police Chief
Recommendation: Approve

I. ITEMS REMOVED FROM THE CONSENT AGENDA

J. UNFINISHED BUSINESS

1. Discuss pedestrian/bicycle striping on the multi-use path along Minutemen Causeway
Staff Representative: Jeremy Hutcherson, Commissioner
Recommendation: Approve installing e-bike pedestrian awareness stencil

K. NEW BUSINESS

1. ADOPT ORDINANCE 1695
AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, AMENDING CHAPTER 26.5, "VACATION RENTALS", OF THE CODE OF ORDINANCES

OF THE CITY OF COCOA BEACH; PROVIDING THAT THE REGULATION OF VACATION RENTALS SHALL BE CITY-WIDE RATHER THAN JUST IN THE RS-1 ZONING DISTRICT; MAKING RELATED CHANGES IN THE CODE; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Staff Representative. Wayne Carragino, City Manager
Recommendation: Adopt on first reading

2. Adopt Resolution 2025-03; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCOA BEACH, FLORIDA; providing legislative findings; AMENDING RESOLUTION NO. 2025-01 that set vacation rental fees and fines and false advertising fines, by providing for a “30-day reduced fee time period” for the payment of vacation registration fees and late fees; providing that all provisions of resolution No. 2025-01 shall remain effective except as temporarily revised by this resolution; and providing for severability and an effective date and ending date.

Staff Representative: City Commission

Recommendation: Approve upon Adoption of Ordinance 1695

L. GENERAL PUBLIC COMMENT

(Only if not accommodated in the 30-minute Public Comment period earlier)

M. ADJOURNMENT

**City of Cocoa Beach City Commission
Agenda Item Summary**

**DEPARTMENT MAKING
REQUEST/NAME:**

City Manager /
Carrie Lombardo, Executive Assistant

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

Proclamation - Ancient order of Hibernians
Keith Reynolds attending to accept

IS THIS ITEM BUDGETED (IF APPLICABLE)?

n/a

BACKGROUND:

Keith Reynolds to attend and accept.

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Manager /
Wayne Carragino, City Manager

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

Approve the Interlocal Agreement between the Space Coast Transportation Planning Organization (TPO), FDOT and Brevard County municipalities in reference to the TPO to provide transportation planning services, to include the Central Florida Expressway Authority. Brevard County is a member of the Central Florida Expressway Board. The Central Florida Expressway Authority has a vital and increasing role in the transportation facilities and services in Brevard County.
Staff Representative: Wayne Carragino, City Manager

IS THIS ITEM BUDGETED (IF APPLICABLE)?

No funds requested.

BACKGROUND:

Interlocal agreement for the board to meet to discuss roadway projects. This also provides the delegates per region.

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THIS INTERLOCAL AGREEMENT for the formation of a Metropolitan Planning Organization is made and entered into on this _____ day of _____, 2025, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; the COUNTY OF BREVARD (also representing the Valkaria Airport, the Titusville-Cocoa Airport Authority, and the Space Coast Area Transit), the Canaveral Port District a/k/a the Canaveral Port Authority, the City of Titusville, the City of Cocoa, the City of Rockledge, the City of Melbourne (also representing the City of Melbourne Airport Authority a/k/a Melbourne Orlando International Airport), the City of West Melbourne, and the City of Palm Bay, the North Beaches Coalition (which includes the City of Cocoa Beach and the City of Cape Canaveral), and the South Beaches Coalition (which includes the City of Satellite Beach, the City of Indian Harbour Beach, the Town of Indialantic, and the Town of Melbourne Beach), collectively known as “the parties” or as the TPO.

RECITALS

WHEREAS, the federal government, under the authority of Title 23 United States Code (USC) §134 and Title 49 USC §5303, requires each metropolitan area, as a condition for the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the metropolitan area;

WHEREAS, the parties to this Interlocal Agreement desire to participate cooperatively in the performance, on a continuing basis, of a coordinated, comprehensive transportation planning process to assure that highway facilities, mass transit systems, bicycle and pedestrian facilities, rail systems, air transportation and other facilities will be properly located and developed in relation to the overall plan of community development;

WHEREAS, Title 23 USC §134 and Title 49 USC §§5303-5305, as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and Section 339.175, Florida Statutes (F.S.), provide for the creation of Metropolitan Planning Organizations to develop transportation plans and programs for urbanized areas;

WHEREAS, pursuant to Titles 23 USC §134(d), 49 USC §5303, 23 CFR §450.310(b), and Section 339.175(2), F.S., a determination has been made by the Governor and units of general purpose local government representing at least 75 percent of the affected population (including the largest incorporated city, based on population as named by the Bureau of Census) in the urban area to designate a Metropolitan Planning Organization;

WHEREAS, pursuant to this Interlocal Agreement, the parties wish to collectively participate in the metropolitan planning process as the Space Coast Transportation Planning Organization for the Palm Bay-Melbourne-Titusville, FL urbanized area and the portion of the Vero Beach-Sebastian, FL urbanized area located within Brevard County, herein after referred to as “the Metropolitan Planning Organization” or “the TPO. A copy of the Metropolitan Planning Area is attached hereto as Exhibit “A” and by this reference incorporated herein. Further, the parties approved by unanimous vote an apportionment

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and boundary plan for presentation to the Governor on the 12th day of October 2023 via Resolution 24-08, a copy of which is attached as Exhibit B and by this reference incorporated herein;

WHEREAS, pursuant to Section 339.175(4), F.S., the Governor, by letter dated the 8th day of August 2024, a copy of which is attached hereto as Exhibit "C" and by this reference incorporated herein, approved the apportionment and boundary plan submitted by the TPO;

WHEREAS, pursuant to Title 23 CFR §450.314(a), and Section 339.175(10), F.S., an agreement must be entered into by the Department, the Metropolitan Planning Organization, and the governmental entities and public transportation operators to identify the responsibility of each party for cooperatively carrying out a comprehensive transportation planning process;

WHEREAS, this Interlocal Agreement is required to create the Metropolitan Planning Organization and delineate the provisions for operation of the TPO;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with Section 339.175(10), F.S.;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with statutory requirements set forth in Section 163.01, F.S., relating to Interlocal Agreements; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties desiring to be legally bound, do agree as follows:

**ARTICLE 1
RECITALS; DEFINITIONS**

Section 1.01. Recitals. Each and all of the foregoing recitals are incorporated herein and acknowledged to be true and correct to the best of the parties' knowledge. Failure of any of the foregoing recitals to be true and correct shall not operate to invalidate this Interlocal Agreement.

Section 1.02. Definitions. The following words when used in this Interlocal Agreement (unless the context shall clearly indicate the contrary) shall have the following meanings:

Interlocal Agreement means and refers to this instrument, as may be amended from time to time.

Department means and refers to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, F.S.

FHWA means and refers to the Federal Highway Administration.

FTA means and refers to the Federal Transit Administration.

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Long Range Transportation Plan (LRTP) is the 20-year transportation planning horizon which includes transportation facilities; identifies a financial plan that demonstrates how the plan can be implemented and assesses capital improvements necessary to preserve the existing metropolitan transportation system and make efficient use of existing transportation facilities; indicates proposed transportation activities; and in ozone/carbon monoxide nonattainment areas is coordinated with the State Implementation Plan, all as required by Title 23 USC §134(c), Title 49 USC §5303, Title 23 CFR §450.322, and Section 339.175(7), F.S.

Metropolitan Planning Area means and refers to the planning area determined by agreement between the TPO and the Governor for the urban area containing at least a population of 50,000 as described in Title 23 USC §134(b)(1), Title 49 USC §5303, and Section 339.175(2)(c) and (d), F.S., and including the existing urban area and the contiguous area expected to become urbanized within a 20-year forecast period, which shall be subject to the Metropolitan Planning Organization's planning authority.

TPO or MPO means and refers to the Metropolitan Planning Organization formed pursuant to this Interlocal Agreement as described in 23 USC §134(b)(2), 49 USC §5303, and Section 339.175(1), F.S.

Transportation Improvement Program (TIP) is the staged multi-year program of transportation improvement projects developed by a Metropolitan Planning Organization consistent with the Long Range Transportation Plan, developed pursuant to 23 USC §134(j), 49 USC §5303, 23 CFR §450.324 and Section 339.175(8), F.S.

Unified Planning Work Program (UPWP) is the biennial program developed in cooperation with the Department and public transportation providers, that identifies the planning priorities and activities to be carried out within a metropolitan planning area to be undertaken during a 2-year period, together with a complete description thereof and an estimated budget, all as required by 23 CFR §450.308, and Section 339.175(9), F.S.

ARTICLE 2 PURPOSE

Section 2.01. General Purpose. The purpose of this Interlocal Agreement is to establish the TPO and recognize the boundary and apportionment approved by the Governor. This Interlocal Agreement shall serve:

(a) To assist in the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through this metropolitan planning area and minimize, to the maximum extent feasible for transportation-related fuel consumption and air pollution;

(b) To develop transportation plans and programs, in cooperation with the Department, which plans and programs provide for the development of transportation facilities that will function as a multi-modal and intermodal transportation system for the metropolitan planning area;

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(c) To implement and ensure a continuing, cooperative, and comprehensive transportation planning process that results in coordinated plans and programs consistent with the comprehensively planned development of this affected metropolitan planning area in cooperation with the Department;

(d) To assure eligibility for the receipt of federal capital and operating assistance pursuant to Title 23 USC §134 and Title 49 USC §§5303, 5304, 5305, 5307, 5309, 5310, 5311, 5314, 5326, 5337 and 5339, 5340;
and

(e) To carry out the metropolitan transportation planning process, in cooperation with the Department, as required by federal, state and local laws.

Section 2.02. Major TPO Responsibilities. The TPO is intended to be a forum for cooperative decision making by officials of the governmental entities which are parties to this Interlocal Agreement in the development of transportation-related plans and programs, including but not limited to:

- (a) The LRTP;
- (b) The TIP;
- (c) The UPWP;
- (d) Incorporating performance goals, measures, and targets into the process of identifying and selecting needed transportation improvements and projects;
- (e) A congestion management process for the metropolitan area and coordinated development of all other transportation management systems required by state or federal law;
- (f) Assisting the Department in mapping transportation planning boundaries required by state or federal law;
- (g) Supporting the Department in performing its duties relating to access management, functional classification of roads, and data collection; and
- (h) Performing such other tasks required by state or federal law.

Section 2.03. Coordination with the Department and Consistency with Comprehensive Plans. Chapter 334, F.S., grants broad authority for the Department's role in transportation. Section 334.044, F.S., includes the legislative intent declaring that the Department shall be responsible for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the State. Section 339.155, F.S., requires the Department to develop a statewide transportation plan, which considers, to the maximum extent feasible, strategic regional policy plans, TPO plans, and approved local government comprehensive plans. Section 339.175(5), F.S., specifies the authority and responsibility of the TPO and the Department to manage a continuing, cooperative, and comprehensive transportation planning process for the

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metropolitan area.

In fulfillment of this purpose and in the exercise of the various powers granted by Chapters 334 and 339, F.S., the parties to this Interlocal Agreement acknowledge that decisions made by the TPO will be coordinated with the Department. All parties to this Interlocal Agreement acknowledge that actions taken pursuant to this Interlocal Agreement will be consistent with local government comprehensive plans.

**ARTICLE 3
TPO ORGANIZATION AND CREATION**

Section 3.01. Establishment of TPO. The TPO for the metropolitan planning area as described in the membership apportionment plan approved by the Governor is hereby created and established pursuant to this Interlocal Agreement to carry out the purposes and functions set forth in Articles 2 and 5. The legal name of this Metropolitan Planning Organization is the Space Coast Transportation Planning Organization.

Section 3.02. TPO to operate pursuant to law. In the event that any election, referendum, approval, permit, notice, other proceeding or authorization is required under applicable law to undertake any power, duty, or responsibility hereunder, or to observe, assume, or carry out any of the provisions of this Interlocal Agreement, the TPO will, to the extent of its legal capacity, comply with all applicable laws and requirements, as amended from time to time.

Section 3.03. Governing board to act as policy-making body of TPO. The governing board established pursuant to Section 4.01 of this Interlocal Agreement shall act as the policy-making body for the TPO and will be responsible for coordinating the cooperative decision-making process of the MPO's actions, and will take required actions as the TPO.

Section 3.04. Data, reports, records, and other documents. Subject to the right to claim an exemption from the Florida Public Records Law, Chapter 119, F.S., the parties shall provide to each other such data, reports, records, contracts, and other documents in its possession relating to the MPO as is requested. Charges are to be in accordance with Chapter 119, F.S.

Section 3.05. Rights of review. All parties to this Interlocal Agreement and the affected federal funding agencies (e.g., FHWA, FTA, and FAA) shall have the rights of technical review and comment on the TPO's projects.

**ARTICLE 4
COMPOSITION; MEMBERSHIP; TERMS OF OFFICE**

Section 4.01. Composition and membership of governing board.

(a) The membership of the TPO shall consist of 19 voting members and 1 non-voting advisor(s). The names of the member local governmental entities and the voting apportionment of the governing board as approved by the Governor shall be as follows:

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Brevard County (also representing the Valkaria Airport, the Titusville-Cocoa Airport Authority, the Space Coast Area Transit)	5 delegates
Canaveral Port District (a/k/a the Canaveral Port Authority)	1 delegate
City of Titusville	2 delegates
City of Cocoa	1 delegate
City of Rockledge	1 delegate
City of Melbourne (one delegate who also represents the Melbourne Airport Authority, a/k/a Melbourne Orlando International Airport)	3 delegates
City of West Melbourne	1 delegate
City of Palm Bay	3 delegates
North Beaches Coalition (which includes the City of Cocoa Beach and the City of Cape Canaveral)	1 delegate
South Beaches Coalition (which includes the City of Satellite Beach, the City of Indian Harbour Beach, the Town of Indialantic, and the Town of Melbourne Beach)	1 delegate
The following organization shall be non-voting advisor to the TPO:	
Florida Department of Transportation, District 5	1 delegate

(b) All voting representatives shall be elected officials of general purpose local governments, two of whom may represent groups of general-purpose local governments through entities created by the TPO for that purpose. The TPO may include, as part of its apportioned voting membership, a member of a statutorily authorized planning board or an official of an agency that operates or administers a major mode of transportation. All individuals acting as a representative of the governing board of the county, the city, or authority shall first be selected by said governing board.

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(c) The voting membership of a Metropolitan Planning Organization shall consist of at least 5 but not more than **19** apportioned members, with the exact number determined on an equitable geographic-population ratio basis, based on an agreement among the affected units of general-purpose local government and the Governor, as required by federal regulations and shall be in compliance with 339.175(3) F.S.

(d) In the event that a governmental entity that is a member of the TPO fails to fill an assigned appointment to the TPO within sixty days after notification by the Governor of its duty to appoint a representative, the appointment shall then be made by the Governor from the eligible individuals of that governmental entity.

Section 4.02. Terms. With the exception of voting delegates of the North Beaches Coalition and the South Beaches Coalition, the term of office of members of the TPO shall be four years. The term of office of the North Beaches Coalition and the South Beaches Coalition, shall be as determined in the interlocal agreement creating the aforesaid North Beaches Coalition and the South Beaches Coalition. The membership of a member who is a public official automatically terminates upon said official leaving the elective or appointive office for any reason or may be terminated by a majority vote of the total membership of the governmental entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be appointed for one or more additional four-year terms.

**ARTICLE 5
AUTHORITIES, POWERS, DUTIES AND RESPONSIBILITIES**

Section 5.01. General authority. The TPO shall have all authorities, powers and duties, enjoy all rights, privileges, and immunities, exercise all responsibilities and perform all obligations necessary or appropriate to managing a continuing, cooperative, and comprehensive transportation planning process as specified in Section 339.175(5) and (6), F.S.

Section 5.02. Specific authority and powers. The TPO shall have the following powers and authority:

(a) As provided in Section 339.175(6)(g), F.S., the TPO may employ personnel and/or may enter into contracts with local or state agencies and private planning or engineering firms to utilize the staff resources of local and/or state agencies;

(b) As provided in Section 163.01(14), F.S., the TPO may enter into contracts for the performance of service functions of public agencies;

(c) As provided in Section 163.01(5)(j), F.S., the TPO may acquire, own, operate, maintain, sell, or lease real and personal property;

(d) As provided in Section 163.01(5)(m), F.S., the TPO may accept funds, grants, assistance, gifts or bequests from local, state, and federal resources and private entities and the TPO may make grants for transportation-related purposes.

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§163.01(5)(m), F.S.;

(e) The TPO may promulgate rules to effectuate its powers, responsibilities, and obligations enumerated herein; provided, that said rules do not supersede or conflict with applicable local and state laws, rules and regulations; and

(f) The TPO shall have such powers and authority as specifically provided in Section 163.01 and Section 339.175(5) and (6), F.S., and as may otherwise be provided by federal or state law.

Section 5.03. Duties and responsibilities. In addition to those duties and responsibilities set forth in Article 2, the TPO shall have the following duties and responsibilities:

(a) As provided in Section 339.175(6)(d), F.S., the TPO shall create and appoint a technical advisory committee;

(b) As provided in Section 339.175(6)(e), F.S., the TPO shall create and appoint a citizens' advisory committee;

(c) As provided in Section 163.01(5)(o), F.S., the TPO membership shall be jointly and severally liable for liabilities, and the TPO may respond to such liabilities through the purchase of insurance or bonds, the retention of legal counsel, and, as appropriate, the approval of settlements of claims by its governing board, or in any manner agreed upon by the TPO. Nothing contained herein shall constitute a waiver by any party of its sovereign immunity or the provisions of section 768.28, F.S.

(d) As provided in Section 339.175(9), F.S., the TPO shall establish an estimated budget which shall operate on a fiscal year basis consistent with any requirements of the UPWP;

(e) The TPO, in cooperation with the Department, shall carry out the metropolitan transportation planning process as required by Title 23 CFR Parts 420 and 450, and Title 49 CFR Part 613, Subpart A, and consistent with Chapter 339, F.S., and other applicable state and local laws;

(f) As provided in Section 339.175(10)(a), F.S., the TPO shall enter into agreements with the Department, operators of public transportation systems and the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan area. These agreements will prescribe the cooperative manner in which the transportation planning process will be coordinated and included in the comprehensively planned development of the area;

(g) Perform such other tasks presently or hereafter required by state or federal law;

(h) Execute certifications and agreements necessary to comply with state or federal law; and

(i) Adopt operating rules and procedures.

ARTICLE 6 FUNDING; INVENTORY REPORT; RECORD-KEEPING

Section 6.01. Funding. The Department shall allocate to the TPO for performance of its transportation planning and programming duties, an appropriate amount of federal transportation planning funds consistent with the approved planning funds formula.

Section 6.02. Inventory report. The MPO agrees to inventory, to maintain records of and to ensure proper use, control, and disposal of all nonexpendable tangible property acquired pursuant to funding under this Interlocal Agreement. This shall be done in accordance with the requirements of Title 23 CFR Part 420, Subpart A, Title 49 CFR Part 18, Subpart C, and all other applicable federal regulations.

Section 6.03. Record-keeping and document retention. The Department and the TPO shall prepare and retain all records in accordance with federal and state requirements, including but not limited to 23 CFR Part 420, Subpart A, 49 CFR Part 18, Subpart C, 49 CFR §18.42, and Chapter 119, F.S.

Section 6.04 Compliance with laws. All parties shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the parties in conjunction with this Agreement. Specifically, if a party is acting on behalf of a public agency the party shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the party.

(b) Provide the public with access to public records as required by Federal and state law and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the TPO upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

ARTICLE 7 MISCELLANEOUS PROVISIONS

Section 7.01. Constitutional or statutory duties and responsibilities of parties. This Interlocal Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Interlocal Agreement does not relieve any of the parties of an obligation or responsibility imposed

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upon them by law, except to the extent of actual and timely performance thereof by one or more of the parties to this Interlocal Agreement or any legal or administrative entity created or authorized by this Interlocal Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 7.02. Amendment of Interlocal Agreement. Amendments or modifications of this Interlocal Agreement may only be made by written agreement signed by all parties here to with the same formalities as the original Interlocal Agreement. No amendment may alter the apportionment or jurisdictional boundaries of the TPO without approval by the Governor.

Section 7.03. Duration; withdrawal procedure.

(a) Duration. This Interlocal Agreement shall remain in effect until terminated by the parties to this Interlocal Agreement. The Interlocal Agreement shall be reviewed by the parties at least every five years, concurrent with the decennial census, and/or concurrent with a new Federal Reauthorization bill, and updated as necessary.

(b) Withdrawal procedure. Any party, except Brevard County and the United States Bureau of the Census designated largest incorporated city, may withdraw from this Interlocal Agreement after presenting in written form a notice of intent to withdraw to the other parties to this Interlocal Agreement and the TPO, at least 90 days prior to the intended date of withdrawal. Upon receipt of the intended notice of withdrawal:

(1) The withdrawing member and the MPO shall execute a memorandum reflecting the withdrawal of the member and alteration of the list of member governments that are signatories to this Interlocal Agreement. The memorandum shall be filed in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located; and

(2) The TPO shall contact The Office of the Governor and the Governor, with the agreement of the remaining members of the TPO, shall determine whether any reapportionment of the membership is appropriate. The Governor and the TPO shall review the previous TPO designation, applicable federal, state and local law, and TPO rules for appropriate revision. In the event that another entity is to be afforded membership in the place of the member withdrawing from the TPO, the parties acknowledge that pursuant to Title 23 CFR §450.310(l)(2), adding membership to the TPO does not automatically require redesignation of the TPO. In the event that a party who is not a signatory to this Interlocal Agreement is afforded membership in the MPO, membership shall not become effective until this Interlocal Agreement is amended to reflect that the new member has joined the TPO.

Section 7.04. Notices. All notices, demands and correspondence required or provided for under this Interlocal Agreement shall be in writing and delivered in person or dispatched by U.S. certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

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BREVARD COUNTY: County Manager 2725 Judge Fran Jamieson Way, Bldg. C, Melbourne, FL 32940 Assistant County Manager 2725 Judge Fran Jamieson Way, Bldg. C, Melbourne, FL 32940	CITY OF PALM BAY: City Manager City of Palm Bay 120 Malabar Rd., Palm Bay, FL 32907
CITY OF CAPE CANAVERAL: City Manager City of Cape Canaveral P.O. Box 326 100 Polk Ave., Cape Canaveral, FL 32920	CITY OF ROCKLEDGE: City Manager City of Rockledge 1600 Huntington Lane Rockledge, FL 32955
CANAVERAL PORT AUTHORITY: Chief Executive Officer Canaveral Port Authority 445 Challenger Rd., Suite 301 Cape Canaveral, FL 32920	CITY OF SATELLITE BEACH: City Manager City of Satellite Beach 565 Cassia Blvd., Satellite Beach, FL 32937
CITY OF COCOA: City Manager City of Cocoa 65 Stone Street, Cocoa, FL 32922	CITY OF TITUSVILLE: City Manager City of Titusville 555 S. Washington Ave., Titusville, FL 32796 Mailing Address: P.O. Box 2806 Titusville, FL 32781
CITY OF COCOA BEACH: City Manager City of Cocoa Beach P.O. Box 322430 1600 Minutemen Causeway, Cocoa Beach, FL 32932-2430	CITY OF WEST MELBOURNE: City Manager City of West Melbourne 2240 Minton Rd. West Melbourne, FL 32904

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CITY OF INDIAN HARBOUR BEACH: City Manager City of Indian Harbour Beach, City Hall 2055 South Patrick Dr., Indian Harbour Beach, FL 32937	TOWN OF INDIALANTIC: Town Manager Town of Indialantic 216 5 th Ave., Indialantic, FL 32903
CITY OF MELBOURNE: City Manager City of Melbourne Melbourne City Hall, 5 TH Floor, 900 Strawbridge Ave., Melbourne, FL 32901	TOWN OF MELBOURNE BEACH Town Manager Town of Melbourne Beach 507 Ocean Ave., Melbourne Beach, FL 32951
FLORIDA DEPARTMENT OF TRANSPORTATION: Charles Koppernolle, FCCM MPO Liaison – Space Coast & Lake Sumter FDOT District-5 Planning & Environmental Management 719 S. Woodland Blvd., Deland, FL 32720	

A party may unilaterally change its address or addressee by giving notice in writing to the other parties as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

Section 7.05. Interpretation.

(a) Drafters of the Interlocal Agreement. The Department and the members of the TPO were each represented by or afforded the opportunity for representation by legal counsel and participated in the drafting of this Interlocal Agreement and in choice of wording. Consequently, no provision should be more strongly construed against any party as drafter of this Interlocal Agreement.

(b) Severability. Invalidation of any one of the provisions of this Interlocal Agreement or any part, clause or word, or the application thereof in specific circumstances, by judgment, court order, or administrative hearing or order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect; provided, that such remainder would then continue to conform to the terms and requirements of applicable law.

(c) Rules of construction. In interpreting this Interlocal Agreement, the following

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rules of construction shall apply unless the context indicates otherwise:

- (1) The singular of any word or term includes the plural;
- (2) The masculine gender includes the feminine gender; and
- (3) The word “shall” is mandatory, and “may” is permissive.

Section 7.06. Enforcement by parties hereto. In the event of any judicial or administrative action to enforce or interpret this Interlocal Agreement by any party hereto, each party shall bear its own costs and attorney’s fees in connection with such proceeding.

Section 7.07. Repeal and Replacement of Existing Interlocal Agreement. At the time of execution and recording of this Interlocal Agreement, an existing Restated Interlocal Agreement for Creation of the Metropolitan Planning Organization is in existence and was recorded July 15, 2014, in Official Records Book 7166, Page 2144, Public Records of Brevard County, as amended by that certain First Amendment to existing Restated Interlocal Agreement for Creation of the Transportation Planning Organization recorded on October 8, 2020, in Official Records Book 8880, Page 279, Public Records of Brevard County. The aforesaid Interlocal Agreement, and its amendment, be and the same is hereby terminated and replaced this instrument. Nothing in this instrument shall affect, void, or repeal any decision or act committed, any appointment made or done, or any contract or right established or accruing before the effective date of this instrument under the authority of the aforementioned Interlocal Agreement and its amendment, and said act, commitment, appointment, contract, or right shall continue in full force unless otherwise voided, repealed, terminated, or amended by act of the TPO separate and apart from this instrument.

Section 7.08. Interlocal Agreement execution; Use of counterpart signature pages. This Interlocal Agreement, and any amendments hereto, may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Section 7.09. Effective date; Cost of recordation.

(a) Effective date. Pursuant to Section 163.01(11), Florida Statutes, this Interlocal Agreement shall become effective upon its filing in the Office of the Clerk of the Circuit Court of Brevard County. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for Brevard.

(b) Recordation. The TPO hereby agrees to pay for any costs of recordation or filing of this Interlocal Agreement in the Office of the Circuit Court in Brevard County. The recorded or filed original, or any amendment, shall be returned to the TPO for filing in its records.

IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

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Signed, Sealed and Delivered in the presence of:

BOARD OF COUNTY
COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

_____, Chairman

As Approved by the Board on:

(COUNTY SEAL)

Rachel Sadoff, Clerk

Review for legal form and content:

Assistant County Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CANAVERAL PORT AUTHORITY

_____, Chairman

:

As Approved by the Board on:

(SEAL)

_____, Secretary/Treasurer

Reviewed for legal form and content:

Port Authority Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF CAPE CANAVERAL,
A Florida Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF COCOA, A Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF COCOA BEACH, A Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Commission on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF INDIAN HARBOUR BEACH, a
Florida Municipal Corporation

By: _____,
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF MELBOURNE, a
Florida Municipal Corporation

By: _____,
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF PALM BAY, a Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF ROCKLEDGE, a Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF SATELLITE BEACH, a Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF TITUSVILLE, a Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

CITY OF WEST MELBOURNE, a Florida
Municipal Corporation

By: _____
_____, City Manager

:

As Approved by the City Council on:

(CITY SEAL)

_____, City Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

TOWN OF INDIALANTIC, a Florida
Municipal Corporation

By: _____
Mike Casey, Town Manager

:

As Approved by the Town Council on:

(TOWN SEAL)

Mollie Carr, Town Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

TOWN OF MELBOURNE BEACH, a
Florida Municipal Corporation

By: _____,
Town Manager

:

As Approved by the Town Commission
on:

(TOWN SEAL)

Amber Brown, Town Clerk

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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IN WITNESS WHEREOF, the undersigned party has executed this Interlocal Agreement on behalf of the referenced legal entity and hereby re-establishes the above designated TPO.

FLORIDA DEPARTMENT OF
TRANSPORTATION, a

By: _____

:

As Approved by the Department on:

(SEAL)

_____, Agency Clerk

Reviewed for legal form and content:

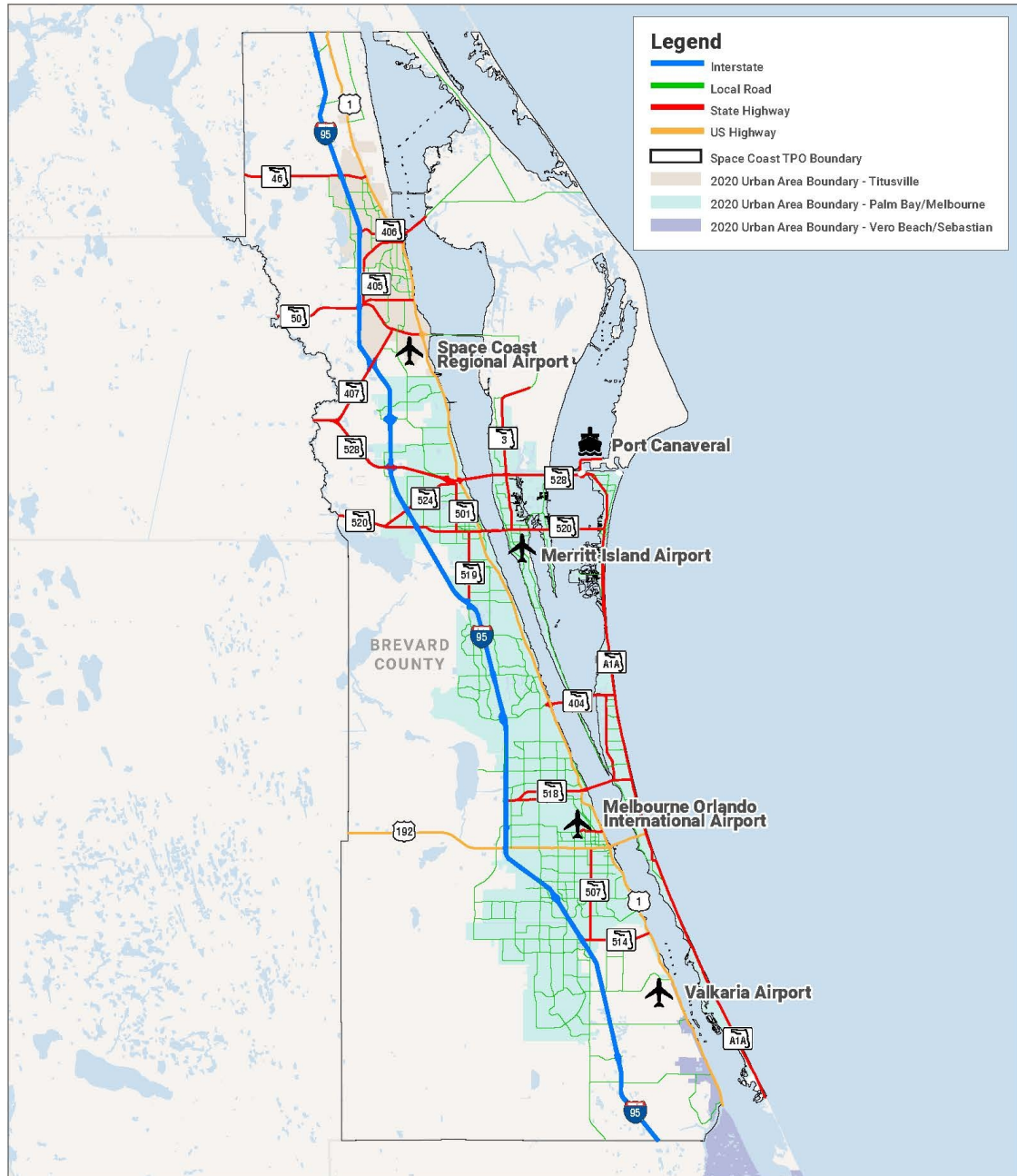
Department Asst. General Counsel

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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EXHIBIT "A"

Space Coast TPO Jurisdictional Boundary



Space Coast TPO Metropolitan Planning Area

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EXHIBIT "B"

Resolution #24-08, Apportionment Plan



Space Coast Transportation Planning Organization

RESOLUTION # 24-08

Apportionment Plan

**A RESOLUTION, of the Space Coast Transportation Planning Organization supporting
the Adoption of the Space Coast TPO Membership Apportionment Plan**

WHEREAS, the Space Coast Transportation Planning Organization is the agency and constituted body designated to conduct a continuing, coordinated, and comprehensive transportation planning process for all of Brevard County including the Palm Bay-Melbourne and Titusville Urbanized Areas; and

WHEREAS, Section 134 Title 23 of the United States Code requires the designation of MPO/TPOs in urban areas, as defined by the United Census Bureau of the Census; and

WHEREAS, Section 134 of Title 23 of the United States Code sets forth membership requirements for MPO/TPOs designated for transportation management areas with a population of 200,000 or more residents; and

WHEREAS, The Space Coast Transportation Planning Organization met on October 12, 2023 to review its voting composition and agreed on the composition presented herein; and

WHEREAS, Section 339.175(4)(a), Florida Statutes, requires the Governor to review the composition of the Metropolitan Planning Organizations membership in conjunction with the decennial census.

WHEREAS, the BOARD'S registered Agent in Florida is Andrea Young, Space Coast TPO Chair. The registered Agent's address is: 2725 Judge Fran Jamieson Way, Building B, Room 105, Melbourne, FL 32940; and

NOW THEREFORE, BE IT RESOLVED, that the Space Coast Transportation Planning Organization approves the submittal of the MPO/TPO Membership Apportionment Plan as displayed in "Attachment A" to the Governor's Office.

Passed and duly adopted at a regular meeting of the Space Coast Transportation Planning Organization Governing Board on the 12th day of October, 2023.

SCTPO Resolution # 24-08, October 12, 2023

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Space Coast Transportation Planning Organization

Certificate

The undersigned duly qualified as Chair of the Space Coast Transportation Planning Organization Governing Board certifies that the foregoing is a true and correct copy of a Resolution adopted at a legally convened meeting of the Space Coast Transportation Planning Organization Governing Board.


Andrea Young
Space Coast TPO Board Chair



By: _____


Joe C. Robinson
Space Coast TPO Board Secretary

SCTPO Resolution # 24-08, October 12, 2023

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Resolution 24-08, Attachment A

SPACE COAST TPO MEMBERSHIP

2020 POP. PERCENT OF TPO POP. PER
 CO. TOTAL MEMBERS MEMBER
 606,612

MUNICIPALITIES				
Represented Municipalities				
Cocoa	19,038	3.1%	1	19,038
North Beaches Coal.	21,319	3.5%	1	21,319
Melbourne	85,047	14.0%	3	28,349
Palm Bay	120,154	19.8%	3	40,051
Rockledge	27,704	4.6%	1	27,704
South Beaches Coal.	26,483	4.4%	1	26,483
Titusville	48,808	8.0%	2	24,404
West Melbourne	26,566	4.4%	1	26,566
Total	375,119	61.8%	13	28,855
Unrepresented Municipalities				
Grant-Valkaria	4,516	0.7%		
Malabar	2,961	0.5%		
Melbourne Village	677	0.1%		
Palm Shores	1,198	0.2%		
Total	9,352	1.5%		
MUNICIPAL TOTAL	384,471	63.4%		

COUNTY COMMISSION DISTRICTS	
District 1	1
District 2	1
District 3	1
District 4	1
District 5	1
COUNTY TOTAL	5

CANAVERAL PORT AUTHORITY	1
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TPO TOTAL	606,612	100%	19	
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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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EXHIBIT "C"

Governor Approval of Apportionment Plan



RON DeSANTIS
GOVERNOR

August 8, 2024

Space Coast Transportation Planning Organization
2725 Judge Fran Jamieson Way, Building B, Room 105
Melbourne, FL 32940

To Whom It May Concern:

In accordance with s. 339.175, Florida Statutes, and Title 23 CFR Part 450, please consider this letter as formal concurrence with the Department of Transportation's recommendation that the Space Coast Transportation Planning Organization's apportionment plan meets the requirements of s. 339.175, Florida Statutes and Title 23 CFR 450.312(a).

The TPO's continued adherence to the requirements of Florida Law are of utmost importance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis, Governor

CC: Mr. Jared Perdue, P.E., Secretary, Florida Department of Transportation

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 717-9249

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

Information Technology /
kperez kperez, IT Director

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

Approve a 63-month leasing agreement with Dex Printing. The agreement includes print management services, equipment and maintenance. This agreement has a cost savings of \$17,873.04 annually and will save a total of \$93,833.46 over the entire leasing period from the previous agreement. Annual cost is \$76,008 for a total of \$399,042 over 63 months. This is a budgeted item.

Staff Representative: Kevin Perez, Informational Technology Director

IS THIS ITEM BUDGETED (IF APPLICABLE)?

This is a budgeted expense.

BACKGROUND:

Cost savings and aging equipment cause disruptions in service. The City currently leases printers and utilizes print management services through Sissine's Office Systems. Many of the leased machines are aging, leading to reduced efficiency and frequent service disruptions. To improve reliability, reduce costs, and modernize the city's printing infrastructure, staff evaluated alternative options. Dex Printing has been identified as the best option to meet the City's needs while offering significant cost savings.

Estimated cost savings of \$17,873.04 annually and \$93,833.46 over the 63-month contract period compared to our current lease and service agreement.

Annual cost is \$76,008 for a total of \$399,042 over 63 months.

This is a budgeted item.



MANAGED PRINT SERVICES AGREEMENT

BILLING INFORMATION:

COMPANY:		
ADDRESS:		
CITY:	ST:	ZIP:
PHONE:	FAX:	
CONTACT:		

EQUIPMENT LOCATION:

SAME AS BILLING: ☐

COMPANY:		
ADDRESS:		
CITY:	ST:	ZIP:
PHONE:	FAX:	
CONTACT:		

METER CONTACT:	EMAIL:	PHONE:	FAX:
----------------	--------	--------	------

PROGRAM: BASE CHARGE: \$ BILLING CYCLE:

BLACK IMPRESSIONS: _____ INCLUDED OVERAGES: \$ _____ PER IMPRESSION

COLOR IMPRESSIONS: _____ INCLUDED OVERAGES: \$ _____ PER IMPRESSION

MICR IMPRESSIONS: _____ INCLUDED OVERAGES: \$ _____ PER IMPRESSION

NETWORKING: ☐ FEES APPLY - SEE SECTION 2PAPER INCLUDED: ☐ FEES APPLY - SEE SECTION 11

SPECIAL INSTRUCTIONS:

EQUIPMENT COVERED UNDER THIS AGREEMENT:

ADDENDUM: _____

MAKE	MODEL	QTY	SPECIAL INSTRUCTIONS

THIS MAINTENANCE AGREEMENT WILL AUTOMATICALLY RENEW FOR ONE (1) YEAR UNLESS CANCELLATION IS RECEIVED IN WRITING AT LEAST THIRTY (30) DAYS PRIOR TO THE END OF THE CONTRACT. REPAIRS DUE TO ABUSE, NEGLIGENCE, OR ACTS OF GOD ARE NOT COVERED.

DEXMPS AUTHORIZED SIGNATURE

CUSTOMER'S AUTHORIZED SIGNATURE

DATE:

DATE:

TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS FORM ARE AN INTEGRAL PART OF THIS CONTRACT.

SCOPE OF COVERAGE

This Agreement covers both labor and material for adjustments, repairs, and replacement of parts as necessitated by normal use of the equipment except for normal key operator responsibilities and others as herein provided. Damage to the equipment and/or its parts arising from misuse, abuse, negligence, or causes beyond DEX MPS' control (including acts of God or natural disasters) is not covered. In addition DEX MPS may terminate this Agreement in the event that the equipment is modified, damaged, altered, or serviced by personnel other than those employed or authorized by DEX MPS, or if parts, accessories, or components not authorized by DEX MPS are fitted to the equipment.

1. BUSINESS HOURS FOR SERVICE

Maintenance services shall be provided hereunder only during DEX MPS' normal business hours, which shall consist of 8:00 AM to 5:00 PM, Monday through Friday, exclusive of DEX MPS holidays and subject to change by DEX MPS.

2. EXTENT OF LABOR SERVICES, REPAIR, AND REPLACEMENT PARTS

Labor performed during a service call includes lubrication and cleaning of the equipment and the adjustments, repair, or replacement of parts. All parts necessary to the normal operation of the equipment will be furnished free of charge. In the event that the equipment is interfaced to a computer or computer network, this Agreement covers only the labor, parts, software, and updates that are provided by the equipment manufacturer which are necessary to interface the connected product. Service associated with application software, software updates on equipment not sold in conjunction with the connected product, reconfiguring, or modification to files and programs and network expansions to include NIC cards and Jet Direct cards are not covered under the Agreement. Networking and basic driver installation is available for \$100 to include up to 5 devices at the same location, or at the rate of \$100 per hour.

3. TERM

This Agreement shall become effective upon receipt and acceptance by DEX MPS and shall continue for 63 months, following date of first invoice. It shall be automatically renewed for successive one year periods.

AUTOMATIC RENEWAL This Agreement is subject to annual increase during the initial term and shall be automatically renewed upon the expiration of the initial term for successive renewal terms. In no case will the renewal or annual increase exceed a 12% price increase over the prior period.

TERMINATION The Initial Term of this Agreement shall be as set forth above. In the event that DEX MPS terminates this Agreement due to uncured Customer breach, or if the Customer elects to terminate Maintenance prior to the expiration of the Initial Term, or any subsequent Renewal Term, without cause, Customer will be responsible for the payment of early termination charges which shall be calculated as the average of the three (3) most recent billing periods, total billing multiplied by the number of months remaining in the unexpired Initial Term or Renewal Term.

CUSTOMER METER READING AND REPORTING OBLIGATIONS

Customer agrees to provide DEX MPS with accurate and timely meter readings at the end of each applicable billing period through the use of Patrol Monitoring Appliances during the Initial Term and all subsequent Renewal Terms. If a DEX MPS Green Box is installed, it must be returned upon termination of this Agreement or the Customer will be billed \$125.00. If DEX MPS Patrol Wi-Fi units are deployed, they must be returned upon termination of this Agreement or Customer will be billed \$50 per unit. If Customer does not allow the use of Patrol Monitoring Appliance, then Customer is responsible for the manual reporting of meters on a timely basis. If Customer does not report meters as required, DEX MPS will dispatch a representative to secure them at a rate of \$120 per hour.

4. CHARGES

The charge for maintenance under this Agreement shall be the amount set forth on the reverse side hereof. The charge with respect to any 12-month Renewal Term will be the charge in effect at the time of renewal. Customer agrees to pay the total of all charges for maintenance during the Term and any Renewal Term within fifteen (15) days of the date of invoice date for such charges. A copy/print is 8.5" x 11".

5. CUSTOMER CHANGES

Any Customer changes, alterations, attachments, or print coverage in excess of 8% may require a change in the charges set forth herein. DEX MPS also reserves the right to terminate this Agreement in the event that it shall determine that such changes, alterations, or attachments make it impractical for DEX MPS to continue to service the Equipment.

Customer must advise DEX MPS of any equipment movements not performed by DEX MPS via the portal at www.deximaging.com. This can be completed by selecting machine movement found within the service dropdown located on the site.

6. ADDITIONAL EQUIPMENT

Any equipment added by Customer, subsequent to the commencement of this Agreement, will be added at the discretion of DEX MPS.

EQUIPMENT REPLACEMENT

DEX MPS, at its sole discretion, reserves the right to replace any equipment covered by this Agreement with a comparable or appropriate model.

Additional equipment supplied by DEX MPS will be governed by the contract type as delineated below.

CONTRACT TYPES

PREMIER – Service and Supplies for existing Customer devices. Replacement units supplied at the Customer expense.

PLATINUM – Service and Supplies for existing Customer devices as well as newly refurbished DEX MPS provided devices. Additional devices and replacement, devices not deemed to be at end of life require a minimum number of prints in addition to the originally contracted base.

PLATINUM+ – Service and Supplies utilizing OEM toner and parts for existing Customer devices as well as new DEX MPS provided devices.

* **PLATINUM/PLATINUM+** Contracts Only: All equipment delivered by DEX MPS remains the property of DEX MPS. Any printer removed from service by DEX MPS, deemed to have reached the end of its useful life, will be replaced with a model of equal or greater value. DEX MPS supplied equipment will be added per the following schedule.

Mono Printer - \$25/month for 1,000 Impressions | \$45/month for 2,500 Impressions
Mono MFP - \$30/month for 1,000 Impressions | \$55/month for 2,000 Impressions

Color Printer - \$30/month for 1,000 Impressions
Color MFP - \$40/month for 1,000 Impressions

Upon termination of this Agreement, printers owned by DEX MPS must be purchased by Customer within thirty (30) days at a mutually agreed upon price or

Customer must deliver the equipment to DEX MPS in good condition and repair to a location designated by DEX MPS within sixty (60) days. Any printers owned by DEX MPS which are not returned will be billed to the customer at replacement value.

7. POWER REQUIREMENTS

Equipment under this Agreement must have a DEX MPS approved surge protector/power filter. Customer agrees to provide the power recommended by the equipment manufacturer. Customer understands that service or parts required as a result of improper power, telephone lines, or computer cabling not supplied by DEX MPS or an authorized agent of DEX MPS may not be covered under this Agreement.

8. WAIVER OF JURY TRIAL

CUSTOMER HEREBY EXPRESSLY WAIVES TRIAL BY JURY AS TO ANY AND ALL ISSUES ARISING OUT OF, OR IN ANY WAY RELATED TO THIS EQUIPMENT ORDER.

9. BREACH OR DEFAULT

If the Customer does not pay all charges for maintenance, parts, or supplies as provided hereunder, promptly when due, or removes or disables Patrol Monitoring Appliances: (1) DEX MPS may (a) refuse to service the equipment, (b) furnish service on a C.O.D. "per call" basis at published rates, or invoice the customer for early termination charges in accordance with the termination paragraph, and (2) the Customer agrees to pay DEX MPS cost and expense of collecting including the maximum attorney's fees permitted by law.

If the equipment is moved to a new service zone, DEX MPS shall have the option to charge, and the Customer agrees to pay, the difference in published maintenance charges between current zone and new zone, assessed on a pro rata basis. If equipment is moved beyond DEX MPS' service zone, Customer agrees to pay a fair and reasonable up charge for continued service under this Agreement, taking into account the distance to Customer's new location and DEX MPS published rates for service on a "per call" basis.

If Customer uses supplies other than DEX MPS' supplies, and such supplies are determined to be defective or not acceptable by DEX MPS and/or cause abnormally frequent service calls or service problems, then DEX MPS may, at its option, terminate this Agreement. In that event, Customer may be offered service on a "per call" basis at published rates. It is not a condition of this Agreement, however, that the Customer uses only DEX MPS supplied materials.

10. NO WARRANTY

Other than the obligations set forth herein, DEX MPS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OR MERCHANTABILITY, FITNESS FOR USE, OR FITNESS FOR A PARTICULAR PURPOSE. DEX MPS SHALL NOT BE RESPONSIBLE FOR DIRECT, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES ARISING OUT OF THE USE OR PERFORMANCE OF THE EQUIPMENT OR THE LOSS OF THE EQUIPMENT.

11. CONSUMABLES

Toner cartridges will be shipped via electronic alerts generated by DEX MPS Patrol Monitoring Appliance. Manual orders can be placed for any units that do not report to the Appliance. .00085 has been added to the per impression rates shown on the front of this agreement in lieu of freight. If a Paper Inclusive Agreement, the cost of paper is shown below:

_____ cases of 8.5"x11" per month at \$_____.

Case = 10 reams, 20lb, white for use in copiers and printers. Paper price will be reviewed quarterly not to exceed a 10% increase. In a cost per impression contract, all unused consumable items remain the property of DEX MPS. At contract termination, all unused consumable items, toner cartridges, developer, drums, etc. must be promptly returned to DEX MPS.

MISCELLANEOUS

This Agreement shall be governed by and construed according to the laws of the State of Florida and is applicable to agreements wholly negotiated, executed, and performed in the State. It constitutes the entire Agreement between the parties and may not be modified except in writing, signed by duly authorized officers of DEX MPS.



COOPERATIVE PROGRAM PARTICIPATION AGREEMENT

This Cooperative Program Participation Agreement (“Program Agreement”) by and between **City of Cocoa Beach** and **Dex Imaging LLC** (“**Dex**”) is made effective as of 2/14//2025 (the Program Agreement Effective Date) and is attached to and governed by the Agreement(s) specifically marked and identified in Section 3.2 below (“Cooperative Agreement(s)”) between Dex and the Cooperative. Buyer and Dex are collectively referred to herein as the “Parties”. All capitalized terms used herein shall have the meaning assigned to them in the Cooperative Agreement unless otherwise defined herein.

WHEREAS, Buyer, a member of the Cooperative (as defined in Section 3.1 below), and Dex desire to enter into this Program Agreement pursuant to which Buyer may participate in the Cooperative Program (as more fully described in each Cooperative Agreement) to purchase Products (as defined below); and

WHEREAS, DEX Imaging, LLC (“DEX”), is a leading provider of managed print services and a designated provider of such services to Cooperative members pursuant to the terms of the Cooperative Agreement.

NOW, THEREFORE, in consideration of the foregoing mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1.0 Previous Program Agreement(s). The Parties acknowledge and agree that this Program Agreement shall replace and supersede any previous Program Agreement including any amendments attached thereto as of the Program Agreement Effective Date set forth in paragraph 1 above.

2.0 Term. The term of this Program Agreement with respect to Buyer shall commence on the Program Agreement Effective Date and shall terminate upon the earlier of (i) termination or expiration of the Cooperative Agreement, or (ii) the date at which Buyer ceases to be a Member of Cooperative (“Program Agreement Term”). In the event that the Program Agreement terminates or expires pursuant to (i) or (ii) above, DEX agrees to offer Buyer the option to enter into a separate agreement with DEX only, provided, however, DEX and Buyer mutually agree upon the terms and conditions of such separate agreement.

3.0 Definitions.

3.1 **Cooperative.** Sourcewell, is a cooperative purchasing organization for the benefit of its members.

3.2 **Cooperative Program.** The specific program(s) checked below:

☒ **Managed Print Services Program.** Labor, materials and consumables for the maintenance of printing equipment as more fully described in that certain Sourcewell Master Agreement, number 012320-SCC dated August 1, 2020 by and between DEX and Cooperative, as amended from time to time.

3.3 **Services.** All items and related services included in the Cooperative Program that Buyer purchases or may purchase from DEX, as more fully described in Attachment 1 to this Program Agreement.

4.0 Buyer Representations and Warranties. Buyer hereby represents and warrants that:

4.1 it is an entity eligible to participate in the Cooperative Program as such participation is defined and permitted pursuant to the terms thereof;

4.2 it is a member of the Cooperative and will maintain its membership with the Cooperative during the Program Agreement Term;

4.3 it has the local legal ability to recognize and participate in joint exercise of powers activities under the applicable state and federal procurement laws; and

- 4.4 as a member of the Cooperative, Buyer may participate in the Cooperative Program, provided, however, Buyer acknowledges that it (i) will be bound in all respects by the terms and conditions of the Cooperative Agreement and terms and conditions of this Program Agreement
- 5.0 **Prices.** Prices for the Services are set forth in Attachment 1 to this Program Agreement, as updated from time to time.
- 6.0 **Payment.** Payments for Managed Print Services shall be remitted by Buyer to DEX using the following remittance details:
- 5109 W Lemon St. Tampa, FL 33609
- Payment of discounts, incentives and/or rebates hereunder, if any, is contingent upon Buyer paying all invoices within the agreed-upon payment terms.
- 7.0 **Conflict.** In the event of conflict between this Program Agreement and the Cooperative Agreement, the terms and conditions of this Program Agreement shall control.
- 8.0
- 9.0

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Program Agreement under seal as of the Program Agreement Effective Date.

[INSERT BUYER NAME]

By its authorized agent:

(Signature)

Name: _____

Title: _____

Date: _____

Address for Notices:

ATTN: _____

Telephone: _____

Facsimile: _____

Email: _____

DEX IMAGING LLC

By its authorized agent:

(Signature)

Name: _____

Title: _____

Date: _____

Address for Notices:

DEX IMAGING LLC

5109 W LEMON STREET

Tampa, FL 33609

ATTN: WILLIAM STEAD

Telephone: _____

Facsimile: _____

Email: _____

with a copy to: ()

Acknowledged:

DEX Imaging, LLC

By its authorized agent:

(Signature)

Name: _____

Title: _____

Date: _____

ATTACHMENT 1
DEX MANAGED PRINT SERVICES AGREEMENT

MASTER AGREEMENT



AGREEMENT NO.:

CUSTOMER ("YOU" OR "YOUR")FULL LEGAL NAME: **City of Cocoa Beach**FEDERAL TAX ID #: **59-6000300**ADDRESS: **2 South Orlando Avenue****Cocoa Beach FL 32931****EQUIPMENT AND PAYMENT TERMS**

TYPE, MAKE, MODEL NUMBER, SERIAL NUMBER, AND INCLUDED ACCESSORIES

SEE ATTACHED SCHEDULE

2 Hewlett-Packard E87740z**5 Hewlett-Packard E87740z****9 Dex D57945dn****1 Hewlett-Packard E40040dn****2 Hewlett-Packard E47528f****2 Hewlett-Packard DesignJet T2600 36-in****1 Papercut Papercut**

EQUIPMENT LOCATION: _____

TERM IN MONTHS: **63**MONTHLY PAYMENT AMOUNT*: **\$4702.42**

(*PLUS TAX)

SECURITY DEPOSIT: _____

END OF TERM PURCHASE OPTION

INDICATE PURCHASE OPTION – IF NO PO IS INDICATED OR IF MORE THAN ONE IS INDICATED, YOUR PURCHASE OPTION WILL BE FAIR MARKET VALUE.

PURCHASE OPTION (FAIR MARKET VALUE (FMV) OR \$1.00 (\$1) FMV)

CONTRACT

THIS AGREEMENT IS NON-CANCELABLE AND IRREVOCABLE. IT CANNOT BE TERMINATED. PLEASE READ CAREFULLY BEFORE SIGNING. YOU AGREE THAT THIS AGREEMENT AND ANY CLAIM RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE IN WHICH OUR (OR, IF WE ASSIGN THIS AGREEMENT, OUR ASSIGNEE'S) PRINCIPAL PLACE OF BUSINESS IS LOCATED AND ANY DISPUTE CONCERNING THIS AGREEMENT WILL BE ADJUDICATED IN A FEDERAL OR STATE COURT IN SUCH STATE. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN SUCH COURTS AND WAIVE TRANSFER OF VENUE. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL.

CUSTOMER'S AUTHORIZED SIGNATURE

BY SIGNING THIS PAGE, YOU REPRESENT TO US THAT YOU HAVE RECEIVED AND READ THE ADDITIONAL TERMS AND CONDITIONS APPEARING ON THE SECOND PAGE OF THIS TWO-PAGE AGREEMENT. THIS AGREEMENT IS BINDING UPON OUR ACCEPTANCE HEREOF.

(As Stated Above)

X

CUSTOMER

SIGNATURE

PRINT NAME & TITLE

DATE

LESSOR ("WE", "US", "OUR")**Dex Imaging, LLC**

LESSOR

SIGNATURE

PRINT NAME & TITLE

DATE

5109 W Lemon St Tampa, FL 33609-1102

ADDITIONAL TERMS AND CONDITIONS

1. AGREEMENT. You want us to now provide you the equipment and/or software referenced herein, together with all replacements, parts, repairs, additions and accessions incorporated therein or attached thereto, excluding equipment marked as not financed under this Agreement ("Equipment") and you unconditionally agree to pay us the amounts payable under the terms of this agreement ("Agreement") each period by the due date. This Agreement is binding upon our acceptance hereof and will begin on the date the Equipment is delivered to you or any later date we designate. We may charge you a one-time origination fee of \$75.00. If any amount payable to us is past due, you will pay a late charge equal to: 1) the greater of seven (7) cents for each dollar overdue or 2) the highest lawful charge, if less. Any security deposit will be returned upon full performance. We may charge you a fee of up to \$50.00 for filing, searching and/or titling costs required under the Uniform Commercial Code (UCC) or other laws. If for any reason your check is returned for nonpayment, you will pay us a bad check charge of \$30 or, if less, the maximum charge allowed by law.

2. NET AGREEMENT. THIS AGREEMENT IS NON-CANCELABLE FOR THE ENTIRE AGREEMENT TERM. YOU AGREE THAT YOU ARE UNCONDITIONALLY OBLIGATED TO PAY ALL AMOUNTS DUE UNDER THIS AGREEMENT FOR THE ENTIRE TERM. YOU ARE NOT ENTITLED TO REDUCE OR SET-OFF AGAINST AMOUNTS DUE UNDER THIS AGREEMENT FOR ANY REASON.

3. EQUIPMENT USE. You will keep the Equipment in good working order, free and clear of all liens and claims, use it for business purposes only and not modify or move it from its initial location without our consent. You agree that you will not take the Equipment out of service and have a third party pay (or provide funds to pay) the amounts due hereunder. You will comply with all laws, ordinances, regulations, requirements and rules relating to the use and operation of the Equipment. We will have the right, at any reasonable time, to inspect the Equipment and any documents relating to its use, maintenance and repair.

4. SERVICES/SUPPLIES. If we have entered into a separate arrangement with you for maintenance, service, supplies, etc. with respect to the Equipment, payments under this Agreement may include amounts owed under that arrangement, which amounts may be invoiced as one payment for your convenience. You agree that you will look solely to us for performance under any such arrangement and for the delivery of any applicable supplies.

5. SOFTWARE/DATA. Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software or the obligations of you or the licensor under any license agreement. You are solely responsible for protecting and removing any confidential data/images stored on the Equipment prior to its return for any reason.

6. LIMITATION OF WARRANTIES. EXCEPT TO THE EXTENT THAT WE HAVE PROVIDED YOU A WARRANTY IN WRITING, WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU CHOSE ANY/ALL THIRD-PARTY SERVICE PROVIDERS BASED ON YOUR JUDGMENT. YOU MAY CONTACT US OR THE MANUFACTURER FOR A STATEMENT OF THE WARRANTIES, IF ANY, THAT THE MANUFACTURER IS PROVIDING. WE ASSIGN TO YOU ANY WARRANTIES GIVEN TO US.

7. ASSIGNMENT. You may not sell, assign, or sublease the Equipment or this Agreement without our written consent. We may sell or assign this Agreement and our rights in the Equipment, in whole or in part, to a third party without notice to you. **You agree that if we do so, our assignee will have our assigned rights under this Agreement but none of our obligations and will not be subject to any claim, defense, or set-off that may be assertable against us or anyone else.**

8. LOSS OR DAMAGE. You are responsible for any damage to or loss of the Equipment. No such loss or damage will relieve you from your payment obligations hereunder. Any insurance proceeds received relating to insurance you obtain will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under this Agreement, plus our booked residual, both discounted at 2% per annum. Except for claims, losses, or damages caused by our gross negligence or willful misconduct, you agree to indemnify and defend (with counsel acceptable to us and our assignee) us and our assignee, if applicable, against, any claims, losses or damages, including attorney fees, in any way relating to the Equipment or data stored on it. In no event will we be liable for any consequential, exemplary, or indirect damages.

9. INSURANCE. You agree to maintain commercial general liability insurance acceptable to us and to include us as an additional insured on the policy. You also agree to: 1) keep the Equipment fully insured against loss at its replacement cost, with us named as lender's loss payee; and 2) provide proof of insurance satisfactory to us no later than 30 days following the commencement of this Agreement, and thereafter upon our written request. If you fail to maintain property loss insurance satisfactory to us and/or you fail to timely provide proof of such insurance, we have the option, but not the obligation, to do so as provided in either (A) or (B) as follows, as determined in our discretion: (A) We may secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we secure insurance on the Equipment, we will not name you as an insured party, your interests may not be fully protected, and you will reimburse us the premium (and an insurance fee) which may be higher than the premium you would pay if you obtained insurance and an insurance fee, and which may result in a profit to us through an investment in reinsurance or otherwise. If you are current in all of your obligations under the Agreement at the time of loss, any insurance proceeds received relating to insurance we obtain pursuant to this subsection (A) will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under this Agreement, plus our booked residual, both discounted at 2% per annum. (B) We may charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk administrative costs or other costs, as would be further described on a letter from us to you. We may make a profit on this program. **NOTHING IN THIS SECTION WILL RELIEVE YOU OF YOUR RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT.** You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to loss or damage to the Equipment.

10. OWNERSHIP/TAXES. Unless the \$1.00 Purchase Option is selected, we own the Equipment. You will pay when due, either directly or by reimbursing us, all taxes and fees relating to the Equipment and this Agreement, including estimated final-year personal property tax. If we pay any taxes or other expenses that you owe hereunder, you agree to reimburse us when we request and to pay us a processing fee for each expense or charge we pay on your behalf. Sales or use tax due upfront will be payable over the term with a finance charge. If the \$1.00 Purchase Option is selected, you acknowledge that 1) the Agreement shall be deemed to be a conditional sales contract, 2) any ownership we have in the Equipment will be deemed transferred to you upon the commencement of the Agreement, and 3) you agree to file any required personal property tax returns relating to the Equipment. If this Agreement is deemed to be a secured transaction, you hereby grant us a security interest in the Equipment (and all additions thereto, replacements thereof, and proceeds) to secure your obligations under the Agreement and any other agreement with us, to be released at the end of the term provided you have performed all of your obligations under this Agreement. You authorize us to record UCC financing statements to protect our interests in the Equipment. You also agree to indemnify us on an after-tax basis against the loss of any tax benefits anticipated by us at the commencement of this Agreement arising out of your acts or omissions.

11. END OF TERM. At the end of the term of this Agreement (or any renewal term) (the "End Date"), this Agreement will renew month to month unless a) we receive written notice from you, at least 30 but no more than 120 days prior to the End Date, of your intent to purchase or return the Equipment, and b) you timely purchase or return the Equipment to the location designated by us, at your expense. If the Fair Market Value Purchase Option is selected and you are not in default on the End Date, you may purchase the Equipment from us "AS IS" for its Fair Market Value. If the returned Equipment is not immediately available for use by another without need of repair, you will reimburse us for all repair costs. You cannot pay off this Agreement or return the Equipment prior to the End Date without our consent. If we consent, we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the price of the Equipment. Agreements with a \$1.00 Purchase Option selected will not renew.

12. DEFAULT/REMEDIES. You will be in default if: (a) you do not pay any payment or other sum due to us or any other person when due or if you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates or any material agreement with any other entity, (b) you make or have made any false statement or misrepresentation to us, (c) you or any guarantor dies, dissolves or terminates existence, (d) you or any guarantor hereof file or have filed against you a petition for relief under the federal Bankruptcy Code or any similar federal or state law, or if there occurs a material adverse change in your or any guarantor's financial, business, or operating condition, or (e) any guarantor defaults under any guaranty for this Agreement. If you are ever in default, at our option, we can terminate this Agreement and we may require that you return the Equipment to us at your expense and pay us: 1) all past due amounts and 2) all remaining payments for the unexpired term, plus our booked residual, both discounted at 2% per annum; and we may disable or repossess the Equipment, require you to stop using any software and use all other legal remedies available to us. You agree to pay all costs and expenses (including reasonable attorney fees and repossession costs) we incur in any dispute with you related to this Agreement. You agree to pay us 1.5% interest per month on all past due amounts. Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. If interest is charged or collected in excess of the maximum lawful rate, we will refund such excess to you, which will be your sole remedy.

13. UCC. If we assign rights in this Agreement for financing purposes, you agree that this Agreement, in the hands of our assignee, is, or shall be treated as, a "Finance Lease" as that term is defined in Article 2A of the Uniform Commercial Code ("UCC"). You agree to forgo the rights and remedies provided under sections 507-522 of Article 2A of the UCC.

14. LIMITATION ON CHARGES. This section controls over every other part of this Agreement and over all documents now or later pertaining to the Agreement. We both intend to comply with all applicable laws. In no event will we charge or collect any amounts in excess of those allowed by applicable law. Any part of this Agreement that could, but for this section, be read under any circumstance to allow for a charge higher than that allowable under applicable legal limit, is limited and modified by this section to limit the amounts chargeable under the Agreement to the maximum amount allowed under the legal limit. If in any circumstance, any amount in excess of that allowed by law is charged or received, any such charge will be deemed limited by the amount legally allowed and any amount received by us in excess of that legally allowed will be applied by us to the payment of amounts legally owed under the Agreement, or refunded to you.

15. MISCELLANEOUS. All indemnities in this Agreement shall survive the termination of this Agreement. This Agreement is the entire agreement between you and us relating to our providing and your use of the Equipment and supersedes any prior representations or agreements, including any purchase orders. Any fees and amounts payable under this Agreement, including any estimated tax payments, may include a profit to us. The parties agree that this Agreement and any related documents hereto may be authenticated by electronic means. The parties agree that the sole original hereof for enforcement and perfection purposes, and the sole "record" constituting "chattel paper" under the UCC, is the paper copy hereof bearing (i) the original or a copy of either your manual signature or an electronically applied indication of your intent to enter into this Agreement, and (ii) our original manual signature. You agree not to raise as a defense to the enforcement of this Agreement or any related documents that you executed or authenticated such documents by electronic or digital means or that you used facsimile or other electronic means to transmit your signature on such documents. Notwithstanding anything to the contrary herein, we reserve the right to require you to sign this Agreement or any related documents hereto manually. If a court finds any provision of this Agreement unenforceable, the remaining terms of this Agreement shall remain in effect. You authorize us to either insert or correct your legal name, the Agreement number, serial numbers, model numbers, beginning date, and signature date. All other modifications to the Agreement must be in writing signed by each party. Within 30 days after our, or if assigned, our assignee's request, you will deliver all requested information (including current financial statements and/or tax returns) which we deem reasonably necessary to determine your current financial condition and faithful performance of the terms hereof. You authorize us or our assignee to (a) obtain credit reports or make credit inquiries in connection with this Agreement, and (b) provide your credit application and information regarding your account to credit reporting agencies, potential assignees, and parties having an economic interest in this Agreement and/or the Equipment. To help the government fight the funding of terrorism and money laundering activities, U.S. Federal law requires financial institutions to obtain, verify and record information that identifies each person (individuals or businesses) who opens an account. What this means for you: when you open an account or add any additional service, we will ask for your name, address, federal employer identification number and other information that will allow us to identify you. We may also ask to see other identifying documents.

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Clerk /
Michael Bryan, Assistant to the City Clerk

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

SUSTAINABLE LAND ADVISORY COMMITTEE

Appoint Eric Belaski to serve a term ending November 2028 (Seat 3 - Commissioner Tumulty)

Staff Representative: Karin Grooms, City Clerk

IS THIS ITEM BUDGETED (IF APPLICABLE)?

N/A

BACKGROUND:

N/a

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

Police /
Wes Mullins, Chief of Police

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

Authorize the City Manager to sign an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the Cocoa Beach Police Department, pursuant to which ICE delegates to nominated, trained, and certified officers or employees of the Cocoa Beach Police Department, the authority to perform certain immigration enforcement functions.

Staff Representative: Wes Mullins, Police Chief

Recommendation: Approve

IS THIS ITEM BUDGETED (IF APPLICABLE)?

n/a

BACKGROUND:

-

February 25, 2025

Preliminary Operational Aspects of Immigration Reform

By J. David Marsey
dmarsey@rumberger.com

After a spirited flurry of immigration bills filed over three special sessions, the Florida Legislature has implemented several changes to Florida's handling of unauthorized aliens which became law February 13, 2025. To be clear, an "unauthorized alien" means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations. § 908.111(1)(d), Fla. Stat. These changes are very broad and impact the criminal justice system, law enforcement operations, and local governments. A full summary of the changes is beyond the scope of this article, which instead focuses on the operational aspects impacting Florida's law enforcement officers.

The Legislature created Chapter 811, Florida Statutes, which includes the prohibition, upon criminal penalty, for any unauthorized alien who is 18 years of age or older from entering Florida More specifically:

[A]n unauthorized alien who is 18 years of age or older and who knowingly enters or attempts to enter this state after entering the united States by eluding or avoiding examination or inspection by immigration officers commits a misdemeanor of the first degree.

§ 811.102(1), Fla. Stat. Notably, one who violates this section is not eligible for a civil citation or pre- or post-arrest diversion programs, and a conviction carries a minimum mandatory sentence of 9 months. The statute provides increased penalties for repeat offenders, providing a second conviction is a third-degree felony, which carries a minimum mandatory sentence of 2 years in the Department of Corrections. However, an unauthorized alien may not be arrested for a violation of this provision if he or she was encountered by law enforcement during the investigation of another crime and the alien was a witness or a victim. Although an officer is not required to investigate affirmative defenses, the new law provides for several, including: (1) the Federal Government has granted lawful presence or discretionary relief that authorizes the alien to be in the United States; (2) if the unauthorized alien is subject to relief under the Cuban Adjustment Act of 1966, or (3) the unauthorized alien's entry into the country did not constitute a violation of 8 U.S.C. s. 1325(a).¹ In this state of flux, caution would suggest an arrest should be deferred until federal immigration authorities confirm none of these factors apply.

¹ Which prohibits entry at an unauthorized time or place or through fraud.

Additionally, if an unauthorized alien illegally enters the state, who has three or more prior convictions for a misdemeanor or non-forcible felony, they are guilty of a felony and subject to the two-year minimum mandatory sentence. If an unauthorized alien illegally enters the state who has a prior conviction for a forcible or aggravated felony, they are guilty of a felony and subject to a five-year minimum mandatory sentence.

Making an arrest under this statute requires the arresting law enforcement agency to: (1) notify immigration and Customs Enforcement of the arrest and to provide known information relating to the unauthorized alien, and (2) notify FDLE and to provide known information relating to the unauthorized alien. Regarding notification to FDLE, the arresting agency must also provide the arrestee's fingerprints, photograph, and any other biometric information necessary to identify the unauthorized alien.

Newly created Chapter 811 also provides for harsher penalties for those who have already been "denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding" and who enter, attempt to enter, or are found in the state. § 811.103, (1), Fla. Stat. Under these circumstances, the unauthorized alien commits a felony of the third degree. The arresting agency must make identical disclosures to ICE and FDLE upon arrest of an authorized alien under this subsection.

Section 104.155(1), Florida Statutes was created which provides that non-citizen who cast votes in any election within the state, commit a third-degree felony. Similarly, those who aid or solicit non-citizens in illegally voting likewise commit a felony of the third degree. § 104.155(2), Fla. Stat.

Section 908.104, Florida Statutes was revised to require state and local law enforcement agencies, and the officials responsible for directing and supervising them shall use best efforts to support the enforcement of federal immigration law. A state entity, local government entity, or law enforcement agency may not prohibit or in any way restrict a law enforcement officer from executing or assisting in execution of a valid judicial warrant. It also provides that, upon request from a federal immigration agency, a sheriff or chief correctional officer operating a county detention facility must provide a list of all inmates and any information about their immigration status.

These statutes provide Florida's law enforcement officers with the ability to arrest unauthorized aliens under the enumerated situations. It is crucial to note, however, that admission that one is an unauthorized alien is insufficient to establish probable cause to arrest. Instead, independent corroboration from federal immigration authorities is required and should be thoroughly documented. Also noteworthy is the yet-unsettled question of whether the unauthorized entry to the state must occur in an officer's presence in order to authorize a misdemeanor arrest, or if the unauthorized alien's mere presence in the state sufficient evidence of illegal entry. Until the courts address the issue, this issue is most likely going to be governed by the elected State Attorneys to determine under what standards they will prosecute unauthorized aliens.

February 25, 2025

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On February 24, 2025, the Florida Sheriff's Association provided the following guidance to their members regarding the administrative warrants being placed into NCIC by ICE, which we adopt and convey here:

It has come to our attention that over the weekend, approximately 700,000 ICE administrative (civil) arrest warrants (I-205) were entered into NCIC. As a result, during everyday policing activities, your deputies may encounter someone for whom ICE has issued an administrative arrest warrant that has been entered into NCIC, and your personnel have no criminal charges on the person. This is a reminder that sheriff's office personnel who are not 287(g) deputized cannot serve or arrest anyone on these administrative warrants, even though they are in NCIC. Arrests on these warrants can only be made by federal agents/officers with immigration authority or a state/local officer who has been 287(g) deputized.

Certainly, your personnel may arrest an individual with an outstanding administrative arrest warrant on a criminal charge, but they cannot arrest the individual on the ICE warrant alone. If your deputy has criminal charges on the person they can arrest the person on those criminal charges, take the person to the county jail, and then notify ICE, who can then come to the jail and serve their administrative arrest warrant. If your deputies do not have criminal charges on the person for whom there is an administrative arrest warrant in NCIC, your deputies should contact the ICE Law Enforcement Service Center (LESC) at the number in the NCIC hit and request and ICE officer come to the scene to arrest the individual. The ICE LESC will ask for the date/time of the stop, reason for the stop, and whether there are local charges. The LESC will then contact a local ICE office to have someone respond to the scene.

If the ICE officer cannot arrive at the scene within a reasonable amount of time (you need to decide what that is), your only real option is to collect as much information from the person as you can and release the person and ICE will have to try to find them through their fugitive operations. Deputies should not transport these people to jail unless there are criminal charges associated with the encounter. If the person is arrested on state or local charges and transported to jail, the normal process of notifying ICE would occur, or if your facility is part of the 287(g) or Warrant Service Officer program, the warrant can be served upon booking.

Should your personnel act on the administrative warrant alone and transport the person to a jail, there may be liability consequences for you and the deputy because your deputies have no authority to make that arrest.

As you are aware, the immigration guidance and actions by the federal government are extremely fluid at this time.

Moving forward, Florida's police chiefs should consult their elected State Attorneys to determine the best practices to ensure effective prosecutions in the different circuits and work with their legal counsel to develop policies and procedures and training guidelines to ensure the timely and efficient implementation of these new tools to address unlawful immigration. Given the potential liability concerns for arresting an unauthorized alien based solely on an ICE administrative warrant by a non287(g) deputized officer, the FPCA recommends that Chiefs and law enforcement executives provide immediate guidance to sworn personnel in this regard. The FPCA will convey any updates, training, procedures, or guidance we receive from federal and state partners. However, due to the rapidly evolving landscape, law enforcement administrators and their officers should consult their local counsel for fact-specific guidance.

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908.101 Legislative findings and intent.

The Legislature finds that it is an important state interest to cooperate and assist the federal government in the enforcement of federal immigration laws within this state.

History.—s. 1, ch. 2019-102.

908.102 Definitions.

As used in this chapter, the term:

(1) “Federal immigration agency” means the United States Department of Justice and the United States Department of Homeland Security, a division within such an agency, including United States Immigration and Customs Enforcement and United States Customs and Border Protection, any successor agency, and any other federal agency charged with the enforcement of immigration law.

(2) “Immigration detainer” means a facially sufficient written or electronic request issued by a federal immigration agency using that agency’s official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant described in paragraph (c). For purposes of this subsection, an immigration detainer is deemed facially sufficient if:

(a) The federal immigration agency’s official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or

(b) The federal immigration agency’s official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that indicates that the federal immigration agency has probable cause to believe that the person to be detained is a removable alien under federal immigration law; and

(c) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law.

(3) “Inmate” means a person in the custody of a law enforcement agency.

(4) “Law enforcement agency” means an agency in this state charged with enforcement of state, county, municipal, or federal laws or with managing custody of detained persons in this state and includes municipal police departments, sheriffs’ offices, state police departments, state university and college police departments, county correctional agencies, and the Department of Corrections.

(5) “Local governmental entity” means any county, municipality, or other political subdivision of this state.

(6) “Sanctuary policy” means a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the agency from:

(a) Complying with an immigration detainer;

(b) Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;

(c) Providing a federal immigration agency access to an inmate for interview;

(d) Participating in any program or agreement authorized under s. 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357 as required by s. 908.11;

(e) Providing a federal immigration agency with an inmate’s incarceration status or release date; or

(f) Providing information to a state entity on the immigration status of an inmate or detainee in the custody of the law enforcement agency.

(7) “State entity” means the state or any office, board, bureau, commission, department, branch, division, or institution thereof, including institutions within the State University System and the Florida College System.

History.—s. 1, ch. 2019-102; s. 2, ch. 2022-193.

908.103 Sanctuary policies prohibited.

A state entity, law enforcement agency, or local governmental entity may not adopt or have in effect a sanctuary policy.

History.—s. 1, ch. 2019-102.

908.104 Cooperation with federal immigration authorities.

(1) A law enforcement agency shall use best efforts to support the enforcement of federal immigration law. This subsection applies to an official, representative, agent, or employee of the entity or agency only when he or she is acting within the scope of his or her official duties or within the scope of his or her employment.

(2) Except as otherwise expressly prohibited by federal law, a state entity, local governmental entity, or law enforcement agency, or an employee, an agent, or a representative of the entity or agency, may not prohibit or in any way restrict a law enforcement agency from taking any of the following actions with respect to information regarding a person’s immigration status:

(a) Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency for purposes of this chapter.

- (b) Recording and maintaining the information for purposes of this chapter.
- (c) Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency for purposes of this chapter.
- (d) Using the information to comply with an immigration detainer.
- (e) Using the information to confirm the identity of a person who is detained by a law enforcement agency.
- (f) Sending the applicable information obtained pursuant to enforcement of s. 448.095 to a federal immigration agency.

(3)(a) For purposes of this subsection, the term “applicable criminal case” means a criminal case in which:

- 1. The judgment requires the defendant to be confined in a secure correctional facility; and
- 2. The judge:
 - a. Indicates in the record under s. 908.105 that the defendant is subject to an immigration detainer; or
 - b. Otherwise indicates in the record that the defendant is subject to a transfer into federal custody.

(b) In an applicable criminal case, when the judge sentences a defendant who is the subject of an immigration detainer to confinement, the judge shall issue an order requiring the secure correctional facility in which the defendant is to be confined to reduce the defendant’s sentence by a period of not more than 12 days on the facility’s determination that the reduction in sentence will facilitate the seamless transfer of the defendant into federal custody. For purposes of this paragraph, the term “secure correctional facility” means a state correctional institution as defined in s. 944.02 or a county detention facility or a municipal detention facility as defined in s. 951.23.

(c) If the information specified in sub-subparagraph (a)2.a. or sub-subparagraph (a)2.b. is not available at the time the sentence is pronounced in the case, but is received by a law enforcement agency afterwards, the law enforcement agency shall notify the judge who shall issue the order described by paragraph (b) as soon as the information becomes available.

(4) When a county correctional facility or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in the law enforcement agency’s custody, the agency may securely transport the person to a federal facility in this state or to another point of transfer to federal custody outside the jurisdiction of the law enforcement agency. The law enforcement agency may transfer a person who is subject to an immigration detainer and is confined in a secure correctional facility to the custody of a federal immigration agency not earlier than 12 days before his or her release date. A law enforcement agency shall obtain judicial authorization before securely transporting an alien to a point of transfer outside of this state.

(5) This section does not require a state entity, local governmental entity, or law enforcement agency to provide a federal immigration agency with information related to a victim of or a witness

to a criminal offense if the victim or witness timely and in good faith responds to the entity's or agency's request for information and cooperation in the investigation or prosecution of the offense.

(6) A state entity, local governmental entity, or law enforcement agency that, pursuant to subsection (5), withholds information regarding the immigration information of a victim of or witness to a criminal offense shall document the victim's or witness's cooperation in the entity's or agency's investigative records related to the offense and shall retain the records for at least 10 years for the purpose of audit, verification, or inspection by the Auditor General.

(7) This section does not authorize a law enforcement agency to detain an alien unlawfully present in the United States pursuant to an immigration detainer solely because the alien witnessed or reported a crime or was a victim of a criminal offense.

(8) This section does not apply to any alien unlawfully present in the United States if he or she is or has been a necessary witness or victim of a crime of domestic violence, rape, sexual exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping, false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion, or witness tampering.

History.—s. 1, ch. 2019-102; s. 12, ch. 2023-40.

908.105 Duties related to immigration detainers.

(1) A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency shall:

(a) Provide to the judge authorized to grant or deny the person's release on bail under chapter 903 notice that the person is subject to an immigration detainer.

(b) Record in the person's case file that the person is subject to an immigration detainer.

(c) Upon determining that the immigration detainer is in accordance with s. 908.102(2), comply with the requests made in the immigration detainer.

(2) A law enforcement agency is not required to perform a duty imposed by paragraph (1)(a) or paragraph (1)(b) with respect to a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed that duty before the transfer.

(3) A judge who receives notice that a person is subject to an immigration detainer shall cause the fact to be recorded in the court record, regardless of whether the notice is received before or after a judgment in the case.

History.—s. 1, ch. 2019-102.

908.106 Reimbursement of costs.

Each county correctional facility shall enter into an agreement or agreements with a federal immigration agency for temporarily housing persons who are the subject of immigration detainers and for the payment of the costs of housing and detaining those persons. A compliant agreement may include any contract between a correctional facility and a federal immigration agency for housing or detaining persons subject to immigration detainers, such as basic ordering agreements

in effect on or after July 1, 2019, agreements authorized by s. 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357, or successor agreements and other similar agreements authorized by federal law.

History.—s. 1, ch. 2019-102.

908.107 Enforcement.

(1) Any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor in the exercise of his or her authority under the State Constitution and state law. Pursuant to s. 1(b), Art. IV of the State Constitution, the Governor may initiate judicial proceedings in the name of the state against such officers to enforce compliance with any duty under this chapter or restrain any unauthorized act contrary to this chapter.

(2) In addition, the Attorney General may file suit against a local governmental entity or local law enforcement agency in a court of competent jurisdiction for declaratory or injunctive relief for a violation of this chapter.

(3) If a local governmental entity or local law enforcement agency violates this chapter, the court must enjoin the unlawful sanctuary policy. The court has continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceedings as provided by law.

(4) An order approving a consent decree or granting an injunction must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy that violates this chapter.

History.—s. 1, ch. 2019-102.

908.108 Education records.

This chapter does not apply to the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g.

History.—s. 1, ch. 2019-102.

908.109 Discrimination prohibited.

A state entity, a local governmental entity, or a law enforcement agency, or a person employed by or otherwise under the direction or control of the entity or agency, may not base its actions under this chapter on the gender, race, religion, national origin, or physical disability of a person except to the extent authorized by the United States Constitution or the State Constitution.

History.—s. 1, ch. 2019-102.

908.11 Immigration enforcement assistance agreements; reporting requirement.

(1) By January 1, 2023, each law enforcement agency operating a county detention facility must enter into a written agreement with the United States Immigration and Customs Enforcement to

participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357. This subsection does not require a law enforcement agency to participate in a particular program model.

(2) Beginning no later than October 1, 2022, and until the law enforcement agency enters into the written agreement required under subsection (1), each law enforcement agency operating a county detention facility must notify the Department of Law Enforcement quarterly of the status of such written agreement and any reason for noncompliance with this section, if applicable.

History.—s. 3, ch. 2022-193.

908.111 Prohibition against governmental entity contracts with common carriers; required termination provisions.

(1) As used in this section, the term:

(a) “Common carrier” means a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering his or her services to all such as may choose to employ the common carrier and pay his or her charges.

(b) “Contract” means a contract that is subject to the competitive procurement requirements of the contracting governmental entity or a contract for an amount or duration requiring it to include written provisions under the procurement requirements of the governmental entity.

(c) “Governmental entity” means an agency of the state, a regional or local government created by the State Constitution or by a general or special act, a county or municipality, or any other entity that independently exercises governmental authority.

(d) “Unauthorized alien” means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

(2) A governmental entity may not execute, amend, or renew a contract with a common carrier or contracted carrier if the carrier is willfully providing any service in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

(3) A contract between a governmental entity and a common carrier or contracted carrier which is executed, amended, or renewed on or after October 1, 2022, including a grant agreement or economic incentive program payment agreement, must include:

(a) An attestation by the common carrier or contracted carrier, in conformity with s. 92.525, that the common carrier or contracted carrier is not willfully providing and will not willfully provide any service during the contract term in furtherance of transporting a person into this state knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from this state or the United States. A governmental entity is deemed to be in compliance with subsection (2) upon receipt of the common carrier’s or contracted carrier’s attestation; and

(b) A provision for termination for cause of the contract, grant agreement, or economic incentive program payment agreement if a common carrier or contracted carrier is found in violation of its attestation.

(4) The Department of Management Services shall develop by rule a common carrier and contracted carrier attestation form no later than August 30, 2022.

History.—s. 4, ch. 2022-193.

1Note.—Section 1, ch. 2023-3, provides:

“(1) As used in this section, the term “inspected unauthorized alien” means an individual who has documentation from the United States Government indicating that the United States Government processed and released him or her into the United States without admitting the individual in accordance with the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term must be interpreted consistently with any applicable federal statutes, rules, or regulations.

“(2) The Legislature finds that the Federal Government has failed to secure the nation’s borders and has allowed a surge of inspected unauthorized aliens to enter the United States. In January 2023, the Governor issued Executive Order 23-03, directing state law enforcement agencies and other state agencies to take necessary actions to protect Floridians from the impacts of the border crisis. Without such action, detrimental effects may be experienced in Florida, including increased crime, diminished economic opportunities and wages for American workers, and burdens on the education and health care systems. The Legislature finds that the Federal Government has proven itself unwilling to address this crisis.

“(3) To mitigate the effects of this crisis on the State of Florida, the Unauthorized Alien Transport Program is created within the Division of Emergency Management within the Executive Office of the Governor for the purpose of facilitating the transport of inspected unauthorized aliens within the United States, consistent with federal law. Notwithstanding s. 287.057, Florida Statutes, the division is authorized to contract for services to implement the program.

“(4) The division may adopt rules to implement the program.

“(5) This section expires June 30, 2025.”

908.12 Transnational crime organizations; reclassification.

(1) As used in this section, the term “transnational crime organization” means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

(2) The penalty for any misdemeanor or felony may be reclassified if the commission of such misdemeanor or felony was for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The reclassification is as follows:

(a) A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.

(b) A misdemeanor of the first degree is reclassified to a felony of the third degree.

(c) A felony of the third degree is reclassified to a felony of the second degree.

(d) A felony of the second degree is reclassified to a felony of the first degree.

(e) A felony of the first degree is reclassified to a life felony.

History.—s. 2, ch. 2024-8

MEMORANDUM OF AGREEMENT

287(g) Task Force Model

This Memorandum of Agreement (MOA) constitutes an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the _____, pursuant to which ICE delegates to nominated, trained, and certified officers or employees of the _____ (hereinafter interchangeably referred to as “Law Enforcement Agency” (LEA)), the authority to perform certain immigration enforcement functions as specified herein. The LEA represents _____ in the implementation and administration of this MOA. The LEA and ICE enter into this MOA in good faith and agree to abide by the terms and conditions contained herein. The ICE and LEA points of contact for purposes of this MOA are identified in Appendix A.

I. PURPOSE

The purpose of this MOA is to set forth the terms and conditions pursuant to which selected LEA personnel (participating LEA personnel) will be nominated, trained, and thereafter be approved by ICE to perform certain functions of an immigration officer under the direction and supervision of ICE within the LEA’s jurisdiction. This MOA sets forth the scope of the immigration officer functions that DHS is authorizing the participating LEA personnel to perform. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating LEA personnel as members of the LEA. However, the exercise of the immigration enforcement authority granted under this MOA to participating LEA personnel shall occur only as provided in this MOA. This MOA also describes the complaint procedures available to members of the public regarding immigration enforcement actions taken pursuant to this agreement by participating LEA personnel.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276, authorizes the Secretary of Homeland Security, or her designee, to enter into written agreements with a State or any political subdivision of a State so that qualified officers and employees can perform certain functions of an immigration officer. This MOA constitutes such a written agreement.

III. POLICY

This MOA sets forth the scope of the immigration officer functions that DHS is authorizing the participating LEA personnel to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating LEA personnel be subject to ICE direction and supervision while performing delegated immigration officer functions pursuant to this MOA. For the purposes of this MOA, ICE officers will provide direction and supervision for participating LEA personnel only as to immigration enforcement functions as authorized in this MOA. The LEA retains supervision of all other aspects of the employment and performance of duties of participating LEA personnel.

IV. TRAINING AND ASSIGNMENTS

Before participating LEA personnel receive authorization to perform immigration officer functions granted under this MOA, they must successfully complete mandatory training on relevant administrative, legal, and operational issues tailored to the immigration enforcement functions to be performed as provided by ICE instructors and thereafter pass examinations equivalent to those given to ICE officers. The mandatory training may be made available to the LEA in both in-person and online, recorded or virtual-meeting formats, as determined by ICE. Only participating LEA personnel who are nominated, trained, certified, and authorized, as set out herein, have authority pursuant to this MOA to conduct the delegated immigration officer functions, under ICE direction and supervision, enumerated in this MOA.

Upon the LEA's agreement, participating LEA personnel performing immigration-related duties pursuant to this MOA will be assigned to various units, teams, or task forces designated by ICE.

V. DESIGNATION OF AUTHORIZED FUNCTIONS

For the purposes of this MOA, participating LEA personnel are authorized to perform the following functions pursuant to the stated authorities, subject to the limitations contained in this MOA:

- The power and authority to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States (INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1)) and to process for immigration violations those individuals who have been arrested for State or Federal criminal offenses.
- The power and authority to arrest without a warrant any alien entering or attempting to unlawfully enter the United States in the officer's presence or view, or any alien in the United States, if the officer has reason to believe the alien to be arrested is in the United States in violation of law and is likely to escape before a warrant can be obtained. INA § 287(a)(2) and 8 C.F.R. § 287.5(c)(1). Subsequent to such arrest, the arresting officer must take the alien without unnecessary delay for examination before an immigration officer having authority to examine aliens as to their right to enter or remain in the United States.
- The power to arrest without warrant for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if the officer has reason to believe the alien to be arrested is in the United States in violation of law and is likely to escape before a warrant can be obtained. INA § 287(a)(4) and 8 C.F.R. § 287.5(c)(2).
- The power to serve and execute warrants of arrest for immigration violations under INA § 287(a) and 8 C.F.R. § 287.5(e)(3).
- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)) to complete required alien processing to include fingerprinting,

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photographing, and interviewing, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review.

- The power and authority to prepare charging documents (INA § 239, 8 C.F.R. § 239.1; INA § 238, 8 C.F.R. § 238.1; INA § 241(a)(5), 8 C.F.R. § 241.8; INA § 235(b)(1), 8 C.F.R. § 235.3) including the preparation of the Notice to Appear (NTA) or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors.
- The power and authority to issue immigration detainers (8 C.F.R. § 287.7) and I-213, Record of Deportable/Inadmissible Alien, for aliens in categories established by ICE supervisors.
- The power and authority to take and maintain custody of aliens arrested by ICE, or another State or local law enforcement agency on behalf of ICE. (8 C.F.R. § 287.5(c)(6))
- The power and authority to take and maintain custody of aliens arrested pursuant to the immigration laws and transport (8 C.F.R. § 287.5(c)(6)) such aliens to ICE-approved detention facilities.

VI. RESOLUTION OF LOCAL CHARGES

The LEA is expected to pursue to completion prosecution of any state or local charges that caused the alien to be taken into custody. ICE may assume custody of aliens who have been convicted of a state or local offense only after such aliens have concluded service of any sentence of incarceration. The ICE Enforcement and Removal Operations Field Office Director or designee shall assess on a case-by-case basis the appropriate actions for aliens who do not meet the above criteria based on special interests or other circumstances after processing by the LEA.

After notification to and coordination with the ICE supervisor, the alien whom participating LEA personnel have determined to be removable will be arrested on behalf of ICE by participating LEA personnel and be transported by the LEA on the same day to the relevant ICE detention office or facility.

VII. NOMINATION OF PERSONNEL

The chief officer of the LEA will nominate candidates for initial training and certification under this MOA. For each candidate, ICE may request any information necessary for a background check and to evaluate a candidate's suitability to participate in the enforcement of immigration authorities under this MOA. All candidates must be United States citizens. All candidates must have at least two years of LEA work experience. All candidates must be approved by ICE and must be able to qualify for appropriate federal security clearances and access to appropriate DHS and ICE databases/systems and associated applications.

Should a candidate not be approved, a substitute candidate may be submitted if time permits such substitution to occur without delaying the start of training. Any subsequent expansion in the number of participating LEA personnel or scheduling of additional training classes may be based

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on an oral agreement of the parties but will be subject to all the requirements of this MOA.

VIII. TRAINING OF PERSONNEL

ICE will provide participating LEA personnel with the mandatory training tailored to the immigration functions to be performed. The mandatory training may be made available to the LEA in both in-person and online, recorded or virtual-meeting formats, as determined by ICE.

Training will include, among other things: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) civil rights laws; (vi) the detention of aliens; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligations under federal law, including applicable treaties or international agreements, to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating LEA personnel are trained and certified, ICE may provide additional updated training on relevant administrative, legal, and operational issues related to the performance of immigration officer functions, unless either party terminates this MOA pursuant to Section XVIII below. Local training on relevant issues will be provided on an ongoing basis by ICE supervisors or a designated team leader.

IX. CERTIFICATION AND AUTHORIZATION

ICE will certify in writing the names of those LEA personnel who successfully complete training and pass all required testing. Upon certification, ICE will provide the participating LEA personnel with a signed authorization to perform specified functions of an immigration officer for an initial period of two years from the date of the authorization. ICE will also provide a copy of the authorization to the LEA. The ICE supervisory officer, or designated team leader, will evaluate the activities of all personnel certified under this MOA.

Authorization of participating LEA personnel to act pursuant to this MOA may be revoked at any time and for any reason by ICE or the LEA. Such revocation will require notification to the other party to this MOA within 48 hours. The chief officer of the LEA and ICE will be responsible for notification of the appropriate personnel in their respective agencies. The termination of this MOA, pursuant to Section XVIII below, shall constitute revocation of all immigration enforcement authorizations delegated herein.

X. COSTS AND EXPENDITURES

Participating LEA personnel will carry out designated functions at the LEA's expense, including salaries and benefits, local transportation, and official issue material. Whether or not the LEA receives financial reimbursement for such costs through a federal grant or other funding mechanism is not material to this MOA.

ICE is responsible for the installation and maintenance of the Information Technology (IT) infrastructure. The use of the IT infrastructure and the DHS/ICE IT security policies are

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defined in the Interconnection Security Agreement (ISA). The ISA is the agreement between ICE's Chief Information Security Officer and the LEA's Designated Accreditation Authority. The LEA agrees that each of its sites using an ICE-provided network access or equipment will sign the ISA, which defines the DHS ICE 4300A Sensitive System Policy and Rules of Behavior for each user granted access to the DHS network and software applications. Failure to adhere to the terms of the ISA could result in the loss of all user privileges.

The LEA is responsible for personnel expenses, including, but not limited to, salaries and benefits, local transportation, and official issue material used in the execution of the LEA's mission. ICE will provide instructors and training materials. The LEA is responsible for the salaries and benefits, including any overtime, of all its personnel being trained or performing duties under this MOA and of those personnel performing the regular functions of the participating LEA personnel while they are receiving training. ICE is responsible for the costs of the LEA personnel's travel expenses while in a training status, as authorized by the Federal Travel Regulation and the ICE Travel Handbook. These expenses include housing, per diem and all transportation costs associated with getting to and from training. ICE is responsible for the salaries and benefits of all ICE personnel, including instructors and supervisors.

The LEA is responsible for providing all administrative supplies (e.g. paper, printer toner) necessary for normal office operations. The LEA is also responsible for providing the necessary security equipment, such as handcuffs, leg restraints, etc.

XI. ICE SUPERVISION

Immigration enforcement activities conducted by participating LEA personnel will be supervised and directed by ICE. Participating LEA personnel are not authorized to perform immigration officer functions except when working under the supervision or direction of ICE.

When operating in the field, participating LEA personnel shall contact an ICE supervisor at the time of exercising the authority in this MOA, or as soon as is practicable thereafter, for guidance. The actions of participating LEA personnel will be reviewed by the ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for additional training or guidance for that specific individual.

For the purposes of this MOA, ICE officers will provide supervision of participating LEA personnel only as to immigration enforcement functions. The LEA retains supervision of all other aspects of the employment of and performance of duties by participating LEA personnel.

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating LEA personnel in exercising these authorities shall be DHS and ICE policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating LEA personnel will be expected or required to violate or otherwise fail to maintain the LEA's rules, standards, or policies, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law unless doing so would violate

federal law.

If a conflict arises between an order or direction of an ICE supervisory officer and LEA rules, standards, or policies, the conflict shall be promptly reported to ICE, and the chief officer of the LEA, or designee, when circumstances safely allow the concern to be raised. ICE and the chief officer of the LEA shall attempt to resolve the conflict.

Whenever possible, the LEA will deconflict all addresses, telephone numbers, and known or suspected identities of violators of the INA with ICE's Homeland Security Investigations or ICE's Enforcement and Removal Operations prior to taking any enforcement action. This deconfliction will, at a minimum include wants/warrants, criminal history, and a person's address, and vehicle check through TECS II or any successor system.

LEA participating personnel authorized pursuant to this MOA may be assigned and/or co-located with ICE as task force officers to assist ICE with criminal investigations.

XII. REPORTING REQUIREMENTS

The LEA will be responsible for tracking and maintaining accurate data and statistical information for their 287(g) program, including any specific tracking data requested by ICE. Upon ICE's request, such data and information shall be provided to ICE for comparison and verification with ICE's own data and statistical information, as well as for ICE's statistical reporting requirements and to assess the progress and success of the LEA's 287(g) program.

XIII. RELEASE OF INFORMATION TO THIRD PARTIES

The LEA may, at its discretion, communicate the substance of this agreement to the media and other parties expressing an interest in the law enforcement activities to be engaged in under this MOA. It is the practice of ICE to provide a copy of this MOA, only after it has been signed, to requesting media outlets; the LEA is authorized to do the same.

The LEA hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA. For releases of information to the media, the LEA must coordinate in advance of release with the ICE Office of Public Affairs, which will consult with ICE Privacy Office for approval prior to any release. The points of contact for ICE and the LEA for this purpose are identified in Appendix C. For releases of information to all other parties, the LEA must coordinate in advance of release with the FOD or the FOD's representative.

Information obtained or developed as a result of this MOA, including any documents created by the LEA that contain information developed or obtained as a result of this MOA, is under the control of ICE and shall not be disclosed unless: 1) permitted by applicable laws, regulations, or executive orders; and 2) the LEA has coordinated in advance of release with (a) the ICE Office of Public Affairs, which will consult the ICE Privacy Office for approval, prior to any release to the media, or (b) an ICE officer prior to releases to all other parties. LEA questions regarding the

applicability of this section to requests for release of information shall be directed to an ICE officer.

Nothing herein limits LEA's compliance with state public records laws regarding those records that are solely state records and not ICE records.

The points of contact for ICE and the LEA for the above purposes are identified in Appendix C.

XIV. LIABILITY AND RESPONSIBILITY

Except as otherwise noted in this MOA or allowed by federal law, and to the extent required by 8 U.S.C. § 1357(g)(7) and (8), the LEA will be responsible and bear the costs of participating LEA personnel regarding their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating LEA personnel will be treated as Federal employees for purposes of the Federal Tort Claims Act, 28 U.S.C. § 1346(b)(1), 2671-2680, and worker's compensation claims, 5 U.S.C. § 8101 et seq., when performing a function on behalf of ICE as authorized by this MOA. *See* 8 U.S.C. § 1357(g)(7); 28 U.S.C. § 2671. In addition, it is the understanding of the parties to this MOA that participating LEA personnel performing a function on behalf of ICE authorized by this MOA will be considered acting under color of federal authority for purposes of determining liability and immunity from suit under federal or state law. *See* 8 U.S.C. § 1357(g)(8).

Participating LEA personnel named as personal-capacity defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. *See* 28 C.F.R. § 50.15. Absent exceptional circumstances, such requests must be made in writing. LEA personnel who wish to submit a request for representation shall notify the local ICE Office of the Principal Legal Advisor (OPLA) field location at _____. OPLA, through its headquarters, will assist LEA personnel with the request for representation, including the appropriate forms and instructions. Unless OPLA concludes that representation clearly is unwarranted, it will forward the request for representation, any supporting documentation, and an advisory statement opining whether: 1) the requesting individual was acting within the scope of his/her authority under 8 U.S.C. § 1357(g) and this MOA; and, 2) such representation would be in the interest of the United States, to the Director of the Constitutional and Specialized Tort Litigation Section, Civil Division, Department of Justice (DOJ). Representation is granted at the discretion of DOJ; it is not an entitlement. *See* 28 C.F.R. § 50.15.

The LEA agrees to cooperate with any federal investigation related to this MOA to the full extent of its available powers, including providing access to appropriate databases, personnel, individuals in custody and documents. Failure to do so may result in the termination of this MOA. Failure of any participating LEA employee to cooperate in any federal investigation related to this MOA may result in revocation of such individual's authority provided under this MOA. The LEA agrees to cooperate with federal personnel conducting reviews to ensure compliance with the terms of this MOA and to provide access to appropriate databases, personnel, and documents necessary to complete such compliance review. It is understood that information provided by any LEA personnel under threat of disciplinary action in an administrative investigation cannot be

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used against that individual in subsequent criminal proceedings, consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967), and its progeny.

As the activities of participating LEA personnel under this MOA derive from federal authority, the participating LEA personnel will comply with federal standards relating to the Supreme Court's decision in *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny, which govern the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

The LEA and ICE are each responsible for compliance with the Privacy Act of 1974, 5 U.S.C. § 552a, DHS Privacy Act regulations, 6 C.F.R. §§ 5.20-5.36, as applicable, and related system of records notices regarding data collection and use of information under this MOA.

XV. COMPLAINT PROCEDURES

The complaint reporting and resolution procedure for allegations of misconduct by participating LEA personnel, regarding activities undertaken under the authority of this MOA, is included at Appendix B.

XVI. CIVIL RIGHTS STANDARDS

Participating LEA personnel who perform certain federal immigration enforcement functions are bound by all applicable federal civil rights statutes and regulations.

Participating LEA personnel will provide an opportunity for subjects with limited English language proficiency to request an interpreter. Qualified foreign language interpreters will be provided by the LEA as needed.

XVII. MODIFICATION OF THIS MOA

Modifications of this MOA must be proposed in writing and approved by the signatories.

XVIII. EFFECTIVE DATE, SUSPENSION, AND TERMINATION OF THIS MOA

This MOA becomes effective upon signature of both parties and will remain in effect until either party terminates or suspends the MOA. Termination by the LEA shall be provided, in writing, to the local Field Office.

In instances where serious misconduct or violations of the terms of the MOA come to the attention of ICE, the ICE Director may, upon recommendation of the Executive Associate Director for Enforcement and Removal Operations, elect to immediately suspend the MOA pending investigation of the misconduct and/or violations.

Notice of the suspension will be provided to the LEA, and the notice will include, at a minimum, (1) an overview of the reason(s) that ICE is suspending the 287(g) agreement, (2) the length of the temporary suspension, and (3) how the LEA can provide ICE with information regarding the alleged

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misconduct and/or violations, as well as any corrective measures it has undertaken.

ICE shall provide the LEA with a reasonable opportunity to respond to the alleged misconduct and/or violations and to take actions to implement corrective measures (e.g., replace the officer(s) who are the focus of the allegations). ICE will provide the LEA timely notice of a suspension being extended or vacated.

If the LEA is working to take corrective measures, ICE will generally not terminate an agreement. The termination of an agreement is generally reserved for instances involving problems that are unresolvable and detrimental to the 287(g) Program.

If ICE decides to move from suspension to termination, ICE will provide the LEA a 90-day notice in advance of the partnership being terminated. The notice will include, at a minimum: (1) An overview of the reason(s) that ICE seeks to terminate the 287(g) agreement; (2) All available data on the total number of aliens identified under the 287(g) agreement; and (3) Examples of egregious criminal aliens identified under the 287(g) agreement. ICE's decision to terminate a MOA will be published on ICE's website 90 days in advance of the MOA's termination.

This MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOA, each party represents it is fully authorized to enter into this MOA, accepts the terms, responsibilities, obligations, and limitations of this MOA, and agrees to be bound thereto to the fullest extent allowed by law.

For the LEA:

Date: _____

Signature: _____

Title: _____

For ICE:

Date: _____

Signature: _____

Title: _____

APPENDIX A

POINTS OF CONTACT

The ICE and LEA points of contact for purposes of implementation of this MOA are:

For ICE: Department of Homeland Security
 Immigration and Customs Enforcement
 Enforcement and Removal Operations
 Assistant Director for Enforcement
 Washington DC

For the LEA:

APPENDIX B

COMPLAINT PROCEDURE

This MOA is an agreement between ICE and the _____, hereinafter referred to as the “Law Enforcement Agency” (LEA), in which selected LEA personnel are authorized to perform immigration enforcement duties in specific situations under federal authority. As such, the training, supervision, and performance of participating LEA personnel pursuant to the MOA, as well as the protections for individuals’ civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOA have agreed to follow.

If any participating LEA personnel are the subject of a complaint or allegation involving the violation of the terms of this MOA the LEA shall, to the extent allowed by state law, make timely notification to ICE.

Further, if the LEA is aware of a complaint or allegation of any sort that may result in that individual receiving professional discipline or becoming the subject of a criminal investigation or civil lawsuit, the LEA shall remove the designated LEA personnel from the program, until such time that the LEA has adjudicated the allegation.

The LEA will handle complaints filed against LEA personnel who are not designated and certified pursuant to this MOA but are acting in immigration functions in violation of this MOA. Any such complaints regarding non-designated LEA personnel acting in immigration functions must be forwarded to the ICE Office of Professional Responsibility (OPR) at ICEOPRIntake@ice.dhs.gov.

1. Complaint Reporting Procedures

Complaint reporting procedures shall be disseminated as appropriate by the LEA within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that individuals are aware of the availability of such procedures. Complaints will be accepted from any source (e.g., ICE, LEA, participating LEA personnel, inmates, and the public).

Complaints may be reported to federal authorities as follows:

- A. Telephonically to the ICE OPR at the toll-free number 1-833-4ICE-OPR; or
- B. Via email at ICEOPRIntake@ice.dhs.gov.

Complaints may also be referred to and accepted by any of the following LEA entities:

- A. The LEA Internal Affairs Division; or
- B. The supervisor of any participating LEA personnel.

2. Review of Complaints

All complaints (written or oral) reported to the LEA directly, which involve activities connected to immigration enforcement activities authorized under this MOA, will be reported to the ICE OPR. The ICE OPR will verify participating personnel status under the MOA with the assistance of ICE. Complaints received by any ICE entity will be reported directly to the ICE OPR as per existing ICE policies and procedures.

In all instances, the ICE OPR, as appropriate, will make an initial determination regarding DHS investigative jurisdiction and refer the complaint to the appropriate office for action as soon as possible, given the nature of the complaint.

Complaints reported directly to the ICE OPR will be shared with the LEA's Internal Affairs Division when the complaint involves LEA personnel. Both offices will then coordinate appropriate investigative jurisdiction, which may include initiation of a joint investigation to resolve the issue(s).

3. Complaint Resolution Procedures

Upon receipt of any complaint the ICE OPR will undertake a complete review of each complaint in accordance with existing ICE allegation criteria and reporting requirements. As stated above the ICE OPR will adhere to existing ICE reporting requirements as they relate to the DHS OIG and/or another legally required entity. Complaints will be resolved using the existing procedures, supplemented as follows:

A. Referral of Complaints to LEA Internal Affairs Division.

The ICE OPR will refer complaints, as appropriate, involving LEA personnel to the LEA's Internal Affairs Division for resolution. The Internal Affairs Division Commander will inform ICE OPR of the disposition and resolution of any complaints referred by ICE OPR.

B. Interim Action Pending Complaint Resolution

Whenever any participating LEA personnel are under investigation and subject to interrogation by the LEA for any reason that could lead to disciplinary action, demotion, or dismissal, the policy requirements of the LEA shall be honored. If appropriate, an individual may be removed from participation in the activities covered under the MOA pending resolution of an inquiry.

C. Time Parameters for Resolution of Complaints

It is expected that any complaint received will be resolved within 90 days. However, this will depend upon the nature and complexity of the substance of the complaint itself.

D. Notification of Resolution of a Complaint

ICE OPR will coordinate with the LEA's Internal Affairs Division to ensure notification as appropriate to the subject(s) of a complaint regarding the resolution of the complaint.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XIII of this MOA, the signatories agree to coordinate any release of information to the media regarding actions taken under this MOA. The points of contact for coordinating such activities are:

For the LEA:

For ICE:

Department of Homeland Security
Immigration and Customs Enforcement
Office of Public Affairs

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 2-C

INTRODUCER: Senator Gruters

SUBJECT: Immigration

DATE: February 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Sadberry	AP	Favorable

I. Summary:

SB 2-C strengthens the state's approach to illegal immigration by providing coordination within the state and with federal immigration agencies.

State Board of Immigration Enforcement

The bill creates the State Board of Immigration Enforcement (board) within the Florida Department of Law Enforcement (FDLE). The Governor and Cabinet will serve as the agency head of the board, and all board action must be by unanimous vote. The board is the chief immigration enforcement officer and must, in part:

- Serve as a resource for the U.S. Immigration and Customs Enforcement (ICE).
- Coordinate with the Federal Government in matters related to immigration.
- Coordinate with and provide assistance to law enforcement.
- Administer the Local Law Enforcement Immigration Grant Program.
- Annually report on cooperation and coordination between the ICE and law enforcement agencies.
- Report to the Legislature by March 24, 2025, the number of vacant beds available in state correctional institutions and facilities and county detention facilities which can be sublet to the ICE for use as detention beds.

Immigration Enforcement Council

The bill creates the State Board of Immigration Enforcement Council (council) for the purpose of advising the board. The council is composed of eight members. The Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture must each appoint one police chief and the President of the Senate and the Speaker of the House must each appoint two sheriffs. The council must unanimously elect a sheriff from among the council's membership to serve as chair.

The council must meet by April 1, 2025, and quarterly thereafter. The council must, in part:

- Assist the board.

- Request guidance from the ICE for training opportunities and strategies to further federal 287(g) program participation.
- Advise the board on the efforts of local law enforcement agencies.
- Provide recommendations on financial resources necessary to aid local law enforcement agencies.
- Provide recommendations to enhance information sharing.
- Provide recommendations on strategies to increase the number of available detention beds for use by the ICE.

Local Law Enforcement Immigration Grant Program

The bill creates the Local Law Enforcement Immigration Grant Program within the State Board of Immigration Enforcement to award grants to support local law enforcement agencies in their cooperation and coordination with federal immigration agencies. The board must award any funds specifically appropriated for the program to reimburse expenses or provide bonus payments. The council is directed to make recommendations to the board on other expenses that should be reimbursable and funding criteria for the program.

The bill appropriates \$250 million from nonrecurring general revenue funds for the program.

Enforcing Cooperation with Federal Immigration Authorities

The bill provides that a state entity, local governmental entity, or law enforcement agency, may not prohibit or in any way restrict a law enforcement officer from executing or assisting in the execution of a lawful judicial warrant.

Additionally the term “sanctuary policy” is amended to include any law, policy, practice, procedure, or custom adopted to prohibit or impede a law enforcement agency from:

- Executing a lawful judicial warrant; or
- Participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law.

The bill specifies that any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor, *including potential suspension from office*.

Unauthorized Alien Transport Program

The bill codifies the Unauthorized Alien Transport Program within the Division of Emergency Management (DEM) for the purpose of facilitating the transport of unauthorized aliens, consistent with federal law. The ICE must specifically request assistance from the DEM with transportation of unauthorized aliens under the direct control and supervision of the ICE and must reimburse the state for the actual cost associated with the transportation.

Other Immigration Provisions

The bill makes numerous changes to enhance criminal penalties for offenses committed by unauthorized aliens, provide requirements for driver licenses, and modify eligibility requirements for out-of-state fee waivers.

Criminal Justice Provisions

The bill makes various changes to criminal penalties and pretrial release and detention procedures. These changes include:

- Reclassifying misdemeanor and felony crimes if the defendant is an unauthorized alien;
- Adding transnational crime organizations to the list of organizations that may be a criminal gang.
- Requiring dangerous unauthorized alien offenders to be sentenced to the maximum penalty for any felony offense.
- Creating a new third degree felony if an unqualified noncitizen votes;
- Creating a new third degree felony for aiding or soliciting an unqualified noncitizen to vote;
- Adding aiding or soliciting an noncitizen to vote to the list of crimes that may constitute racketeering activity; and
- Ranking specified crimes related to unauthorized alien voting.
- Creating a rebuttable presumption that an unauthorized alien is a flight risk for purposes of pretrial release. If an unauthorized alien cannot demonstrate by a preponderance of the evidence that he or she is not a flight risk, he or she must be detained.

The bill requires law enforcement to:

- Comply with an immigration detainer if such a detainer has been placed on a defendant;
- Notify the state attorney of such detainer; and
- Provide a list of all inmates booked into a detention facility upon request by the federal government.

The bill makes changes to exceptions to reporting a person's information to the Federal Government if such person is a witness or victim of a crime. The changes ensure that the crime occurred in the United States and that such witness or victim is necessary to the investigation or prosecution.

Driver License and Motor Vehicle Provisions

The bill clarifies proof of identity requirements for driver licenses and motor vehicle titles and registrations by defining valid passports issued by foreign governments. The bill provides that, for purposes of proof of identity, a driver license from another state must be compliant with the REAL ID Act of 2005. The bill prohibits the issuance of a driver license or identification card to any person who is an unauthorized alien or undocumented immigrant. The bill also requires a person who becomes a U.S. citizen to obtain a replacement driver license within 30 days of becoming a citizen.

Out-of-State Fee Waivers

The bill modifies the eligibility for an out-of-state fee waiver at a public postsecondary institution. Beginning July 1, 2025, a student must be a citizen of the United States or lawfully present in the United States to receive the fee waiver, in addition to other requirements. Public postsecondary institutions must, beginning July 1, 2025, reevaluate all students currently receiving the waiver to determine continued eligibility.

The bill will have a significant fiscal impact. The bill appropriates the sum of \$13,233,593 in recurring funds and the sum of \$285,596,959 in nonrecurring funds from the General Revenue Fund and authorizes a total of 89 full-time equivalent positions. *See Section V., Fiscal Impact Statement.*

Except as otherwise provided by the act, it takes effect upon becoming a law.

II. Present Situation:

Federal Immigration Policy & Background

The Federal Government is responsible for establishing and enforcing immigration laws. Congress has enacted legislation, which the federal courts have interpreted, and the body of immigration law has developed. The responsibility for enforcing immigration laws rests with the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) and its Enforcement and Removal Operations. It is the mission of Enforcement and Removal Operations to identify, apprehend, and remove aliens who are a risk to national security or public safety, enter the country illegally, or seek to undermine the integrity of the country's immigration laws or border control efforts.¹

Immigration Enforcement Encounters

Over the last four federal fiscal years (FFY),² the U.S. Border Patrol and Office of Field Operations has recorded close to 11.5 million enforcement encounters as described in the table below.³ These actions refer to actions involving individuals “encountered at ports of entry who are seeking lawful admission into the United States but are determined to be inadmissible, individuals presenting themselves to seek humanitarian protection under our laws, and individuals who withdraw an application for admission and return to their countries of origin within a short timeframe.”⁴ The total also includes encounters that led to apprehensions or expulsions; apprehensions refer to individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.⁵

¹ United States Immigration and Customs Enforcement, Department of Homeland Security, *Enforcement and Removal Operations, Mission*, available at <https://www.ice.gov/about-ice/ero> (last visited February 9, 2025).

² *Id.* The federal fiscal year is October 1 to September 30 of the next calendar year.

³ United States Customs and Border Protection, Department of Homeland Security, *Total CBP Enforcement Actions*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>. (last visited February 9, 2025).

⁴ *Id.* at note 1.

⁵ *Id.* at notes 1 and 2.

Enforcement	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Total Enforcement Encounters	646,822	1,956,519	2,766,582	3,201,144	2,901,142

In addition to the approximately 11.5 million enforcement encounters, the U.S. Customs and Border Protection has recorded roughly 2 million known “gotaways” since the beginning of FFY 2021, but the actual number of gotaways may be 20 percent greater.⁶ Gotaways are individuals who have evaded detection and attempts at verifying their identities or backgrounds.

Immigration Hearings

Though they may be removed at some point, many inadmissible aliens are released or paroled into the United States after an enforcement encounter. Under federal law, an inadmissible alien is an alien who is generally ineligible to receive a visa or ineligible to be admitted to the United States for specified reasons.⁷ Those released or paroled include hundreds of thousands of inadmissible aliens who have scheduled appointments through the CBP One app.⁸ This app, disabled by the new federal administration on January 20, 2025, was used for scheduling appointments for asylum processing at points of entry along the southwest border.⁹

Many illegal immigrants who are released into the United States are given hearing dates at an immigration court of the U.S. Department of Justice’s Executive Office for Immigration Review.¹⁰ While these courts have experienced a substantial backlog of cases since FFY 2006, the number of pending cases has recently grown to unprecedented levels. Federal fiscal year 2019 registered more than 1 million pending cases for the first time in its history. The total pending cases approached almost 2.5 million at the conclusion of FFY 2023. At the conclusion

⁶ Homeland Security Committee Republicans, United States House of Representatives, *Border Crisis Startling Stats: Fiscal Year 2024 Ends With Nearly 3 Million Inadmissible Encounters Bringing Total Encounters to 10.8 Million Since FY2021*, (September 2024), available at <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>. (last visited February 9, 2025).

⁷ Specified reasons include, in part, that the alien has a communicable disease of public health significance; has a physical or mental disorder and behavior that poses a threat to the property, safety or welfare of the individual or others; has committed acts constituting a crime of moral turpitude; has violated a law related to a controlled substance; has committed two or more criminal offenses for which the aggregate sentences to confinement were 5 years or more; trafficked in controlled substances; has engaged in terrorist activity, is likely to engage in terrorist activity, or has incited terrorist activity; has falsely represented himself or herself to be a citizen of the United States; an alien who has voted illegally. See 8 U.S.C. s. 1182 for more details, including exceptions and grounds for waivers. For a more in depth explanation of the various grounds for inadmissibility see Abigail F. Kolker and Hillel R. Smith, *Immigration: Grounds of Inadmissibility*, Congressional Research Service (July 29, 2024), available at <https://crsreports.congress.gov/product/pdf/IF/IF12662>. (last visited February 9, 2025).

⁸ Homeland Security Committee Republicans, United States House of Representatives, *Border Crisis Startling Stats: Fiscal Year 2024 Ends With Nearly 3 Million Inadmissible Encounter, Bringing Total Encounters to 10.8 Million Since FY 2021* (September 2024) (explaining that since January 2023, 95.8 percent of 852,000 otherwise inadmissible aliens who scheduled appointments through the CBP One app from January 2023 through September 2023 were ultimately released into the United States on parole), available at <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>. (last visited February 9, 2025).

⁹ United States Customs and Border Protection, Department of Homeland Security, *CBP One Mobile Application*, available at <https://www.cbp.gov/about/mobile-apps-directory/cbpone>. (last visited February 9, 2025).

¹⁰ Holly Straut-Eppsteiner, *Immigration Courts: Decline in New Cases at the End of FY2024*, Congressional Research Service (November 26, 2024), available at <https://crsreports.congress.gov/product/pdf/IN/IN12463>. (last visited February 9, 2025).

of FFY 2024, there were almost 3.6 million pending cases. These immigration hearings often relate to asylum claims that are raised as a defense to removal.¹¹

Attempts to Locate Migrants Who Have Been Released into the Country

The Office of Inspector General (OIG) of the DHS released a report¹² in September 2023 that noted from March 2021 through August 2022, the DHS released more than 1,000,000 migrants into the country.

The DHS is required to obtain an address for each migrant when possible. However, the inspector general's office reviewed 981,671 migrant records and found that addresses for more than 177,000 records, or approximately 18 percent, were missing, were not valid for delivery purposes, or did not contain legitimate residential locations. Of the total number of addresses, 80 percent were reported to have been used at least twice during the 18 month period of the review. Over 780 residential addresses were listed more than 20 times. The report stated that 54,663 records did not contain an address. The report also noted that in an average month, the DHS releases more than 60,000 migrants into the country and it is essential that the post-release addresses be accurate for ICE to be able to locate migrants once they are released.

The OIG made four recommendations for the DHS to implement and thereby improve the ability to locate migrants who have been released. The DHS responded to the recommendations by stating that it did not concur with the OIG's analysis. As a result, the OIG responded that it did not find the DHS' actions to be responsive to the recommendations.

Illegal Immigrant Population Estimates

Current authoritative data on the number of illegal immigrants in the United States or in this state is not available. However, the PEW Research Center estimated that the number of illegal immigrants in the United States was approximately 11 million in 2022.¹³ For Florida, the Center estimated that the population of illegal immigrants grew by 400,000 from 2019 to 2022 to approximately 1.2 million.¹⁴ These estimates of illegal immigrants include those aliens who have temporary protection from deportation. The estimates, however, do not include aliens who have been admitted for lawful residence, persons admitted as refugees, persons granted asylum, and lawful temporary residents such as foreign students and guest workers.

New Executive Orders by President Trump

On his first day in office, President Trump issued the following executive orders relating to the enforcement of federal immigration laws:

¹¹ Holly Straut-Eppsteiner, *Asylum Process in Immigration Courts and Selected Trends*, Congressional Research Service (May 15, 2023), available at <https://crsreports.congress.gov/product/pdf/R/R47504>. (last visited February 9, 2025).

¹² Joseph V. Cuffari, Ph.D., Inspector General, Office of Inspector General, Department of Homeland Security, *DHS Does Not Have Assurance That All Migrants Can be Located Once Released into the United States* (September 6, 2023), available at <https://www.oig.dhs.gov/sites/default/files/assets/2023-09/OIG-23-47-Sep23-Redacted.pdf>. (last visited February 9, 2025).

¹³ Jeffrey S. Passell and Jens Manuel Krogstad, Pew Research Center, *What we know about unauthorized immigrants living in the United States* (July 22, 2024), available at <https://www.pewresearch.org/short-reads/2024/07/22/what-we-know-about-unauthorized-immigrants-living-in-the-us/>. (last visited February 9, 2025).

¹⁴ *Id.*

- *Declaring a National Emergency at the Southern Border of the United States*, ordered the deployment of the Armed Forces, including the Ready Reserve and the National Guard, to obtain complete operational control of the southern border.¹⁵ The order also directed the Secretaries of Defense and Homeland Security to immediately construct additional physical barriers along the southern border.
- *Securing Our Borders*, ordered that the border be secured through various means including federal-state partnerships to enforce federal immigration priorities, detaining and removing aliens apprehended for violations of immigration law, and ending the prior administrations “catch-and-release” practices.¹⁶
- *Realigning the United States Refugee Admissions Program*, ordered that state and local jurisdictions have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions.¹⁷
- *Designating Cartels and other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists*, noted that some violent cartels profit by the trafficking of drugs and humans through Mexico and into the United States in ways that threaten the security and stability of Mexico and the United States.¹⁸ Based on that finding, the order directed the Secretary of State, in consultation with other federal officials, to make recommendations regarding the designation of any cartel or similar organization as a Foreign Terrorist Organization or Specially Designated Global Terrorist.

Immigration Policy in Florida

In recent years, Governor DeSantis and the Legislature have taken action to address the increasing immigration crisis. The Governor has issued the following executive orders:

- September 28, 2021, Executive Order No. 21-223, *Biden Border Crisis*.¹⁹ Finding that the detrimental effects of an unsecured southwest border of the United States would reverberate beyond border states, including increased crime, such as drug trafficking and human trafficking and smuggling, diminished economic opportunities for American workers, and stresses on education and healthcare systems. The order prohibited state agencies from assisting with the transport of aliens apprehended at the southwest border into Florida. Moreover, the order required state agencies to use the federal Systematic Alien Verification for Entitlements program to confirm the eligibility of persons before providing any funds, resources, or other benefits.

¹⁵ Executive Order by President Trump, *Declaring a National Emergency at the Southern Border of the United States* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-emergency-at-the-southern-border-of-the-united-states/>. (last visited February 9, 2025).

¹⁶ Executive Order by President Trump, *Securing Our Borders* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders/>. (last visited February 9, 2025).

¹⁷ Executive Order by President Trump, *Realigning the United States Refugee Admission Program* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/>. (last visited February 9, 2025).

¹⁸ Executive Order by President Trump, *Designating Cartels and other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/>. (last visited February 9, 2025).

¹⁹ See State of Florida, Office of the Governor, *Executive Order No. 21-223* (September 28, 2021), available at https://flgov.com/eog/sites/default/files/executive-orders/2024/EO_21-223.pdf. (last visited February 9, 2025).

- January 6, 2023, Executive Order No. 23-03, *Emergency Management – Illegal Migration*.²⁰ Based on findings of unprecedented interdictions, attempts of entry, and border patrol encounters, the Governor designated the migration of unauthorized aliens to Florida as likely to constitute a major disaster and designated the director of the Division of Emergency Management as the state coordinating officer for the disaster with direction to execute response, recovery, and mitigation plans necessary to cope with the emergency. The order also activates the Florida National Guard, as needed, to assist with the efforts. The order waives contracting policies and requirements, allows for expenditure of state funds through the Emergency Preparedness and Response Fund, and authorizes medical professionals, social workers, and counselors with good and valid licenses issued by other states to provide humanitarian aid services.²¹

The Governor extended the duration of Executive Order No. 23-03 multiple times for the same reason: “the influx of illegal aliens remains unabated and the response from the Biden Administration continues to be inadequate.”²² The order, last extended on December 9, 2024, remains in effect for 60 days following that date.²³

The Legislature responded to the recent increases in illegal immigration most significantly by enacting:

- SB 1808 (2022), expanded the definition of “sanctuary city,” required each law enforcement agency that operates a county detention facility to enter into 287(g) agreements, and prohibited state and local governments from entering into certain contracts.
- SB 1718 (2023), increased criminal penalties for human smuggling and using false identification; required employers use E-Verify; provided that driver licenses issued in other states to persons who do not provide proof of lawful presence in the United States are not valid in this state; required persons in the custody and subject to an immigration detainer to submit a DNA sample; and required the collection of data to aid in the determination of the cost of health care provided to illegal immigrants.
- HB 1589 (2024) increased criminal penalties for repeat offenses of driving without a valid driver license.
- SB 1036 (2024) increased criminal penalties for certain persons who commit a felony after having been convicted of a crime relating to the reentry into the United States, and for committing crimes to further the interests of a transnational crime organization, which is an organization that is routinely involved in trafficking drugs, humans, or weapons.
- HB 1451 (2024) prohibited counties and municipalities from accepting identification cards that are issued by organizations that knowingly issue them to individuals who are not lawfully present in the United States.

²⁰ State of Florida, Office of the Governor, *Executive Order No. 23-03* (January 6, 2023), available at <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO-23-03-1.pdf>. (last visited February 9, 2025).

²¹ *Id.*

²² See State of Florida Office of the Governor, *Executive Order Nos. 23-49, 23-88, 23-134, 23-213, 23-245, 24-35, 24-74, 24-118, 24-173, 24-220, and 24-269*.

²³ State of Florida, Office of the Governor, *Executive Order No. 24-269* (December 9, 2024), available at <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO%2024-269.pdf>. (last visited February 9, 2025).

Cooperation with Federal Immigration Enforcement

Legislation in 2019 created ch. 908, F.S., which, among other things, prohibits state and local government entities from having sanctuary policies.^{24, 25} A sanctuary policy is a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with federal immigration laws or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the agency from:

- Complying with an immigration detainer;
- Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;
- Providing a federal immigration agency access to an inmate for interview;
- Participating in any program or agreement authorized under s. 287 of the Immigration and Nationality Act, [8 U.S.C. s. 1357](#) as required by [s. 908.11](#);
- Providing a federal immigration agency with an inmate's incarceration status or release date; or
- Providing information to a state entity on the immigration status of an inmate or detainee in the custody of the law enforcement agency.²⁶

The act sought to ensure that state and local entities and law enforcement agencies cooperate with Federal Government officials to enforce, and not obstruct, immigration laws. In its most general and broad terms, the law prohibits sanctuary policies and requires law enforcement agencies to support the enforcement of federal immigration law.²⁷ When local law enforcement agencies work with federal immigration officials, aliens who have committed serious crimes are more easily identified and removed.

Each law enforcement agency operating a county detention facility must enter into a written agreement with the ICE to participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357.²⁸ Until the law enforcement agency enters into the written agreement, the agency must notify the Department of Law Enforcement (FDLE) quarterly of the status of such written agreements and any reason for noncompliance if applicable.²⁹

The 287(g) program allows ICE to partner with state and local law enforcement agencies to identify and remove incarcerated criminal aliens who are amenable to removal from the United States before they are released into the community. There are two program models: the Jail

²⁴ Section 908.103, F.S.

²⁵ Chapter 2019-102, L.O.F. The law was challenged in *City of South Miami v. DeSantis*, 408 F.Supp.3d 1266 (S.D. Fla. Sept. 21, 2021). Three provisions were enjoined but severable from the remainder of the law. The case was appealed to the Eleventh Circuit Court of Appeals on October 20, 2021, and the Eleventh Circuit vacated the judgment and remanded to the lower court with instructions to dismiss for lack of jurisdiction. See *City of South Miami v. DeSantis*, 65 F. 4th 631 (11th Cir. 2023).

²⁶ Section 908.102, F.S.

²⁷ See ch. 908, F.S.

²⁸ Section 908.11, F.S. A law enforcement agency is not required to participate in a particular program model.

²⁹ *Id.*

Enforcement Model and the Warrant Service Officer program. The Jail Enforcement Model is designed to identify and process removable aliens who are arrested by state and local law enforcement and have criminal or pending criminal charges. The Warrant Service Officer program allows ICE to train, certify, and authorize state and local law enforcement officers to serve and execute administrative warrants on aliens in their agency's jail.³⁰

Section 908.104, F.S., requires a Florida law enforcement agency to use its best efforts to support the enforcement of federal immigration law. This applies to an official, representative, agent, or employee of the entity or agency only when he or she is acting within the scope of his or her official duties or within the scope of his or her employment.

Except as otherwise prohibited by federal law, a state entity, local governmental entity, or law enforcement agency, or an employee, an agent, or a representative thereof, may not prohibit or restrict a law enforcement agency from taking the following actions regarding a person's immigration status:³¹

- Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency.
- Recording and maintaining the information.
- Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency.
- Using the information to comply with an immigration detainer.
- Using the information to confirm the identity of a person who is detained by a law enforcement agency.
- Sending the applicable information obtained pursuant to enforcement of s. 448.095, F.S., to a federal immigration agency.³²

A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency must:

- Provide to the judge authorized to grant or deny the person's release on bail notice that the person is subject to an immigration detainer.
- Record in the person's case file that the person is subject to an immigration detainer.

³⁰ United States Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, (January 24, 2025), available at <https://www.ice.gov/identify-and-arrest/287g> (last visited February 9, 2025).

³¹ Section 908.104(2), F.S.

³² Section 908.104(2)(a)-(f), F.S.

- Upon determining the detainer is in accordance with s. 908.102(2), F.S.,³³ comply with the requests made in the immigration detainer.^{34, 35}

A judge who receives notice that a person is subject to an immigration detainer must ensure the fact is recorded in the court record, regardless of whether the notice is received before or after a judgement in the case.

In an applicable criminal case,³⁶ when the judge sentences a defendant who is the subject of an immigration detainer to confinement, the judge must issue an order requiring the secure correctional facility³⁷ housing the defendant to reduce the defendant's sentence by no more than 12 days on the determination that the reduction will aid in a seamless transfer of the defendant into federal custody.³⁸ If information regarding an immigration detainer is not available at the time of sentencing, a law enforcement agency must notify the judge who will issue the order as soon as the information becomes available.³⁹

When a county correctional facility or the Department of Corrections (DOC) receives verification from a federal immigration agency that a person in custody is subject to an immigration detainer, the law enforcement agency may transport the person to a federal facility in this state or another point of transfer to federal custody outside the jurisdiction of law enforcement. The agency may not transfer a person earlier than 12 days before his or her release date. A law enforcement agency must obtain judicial authorization before transporting a person to a point of transfer outside of the state.⁴⁰

A state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related to a victim of or a witness to a criminal offense if the victim or witness timely and in good faith responds to the agency's request for

³³ "Immigration detainer" means a facially sufficient written or electronic request issued by a federal immigration agency using that agency's official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. ss. 1226 and 1357 along with the warrant described. An immigration detainer is facially sufficient if the federal immigration agency's official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or if the federal immigration agency's official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that the agency has probable cause and the agency supplies a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law. Section. 908.102(2), F.S.

³⁴ Section 908.105(1)(a)-(c), F.S.

³⁵ Section 908.105(2), F.S., provides that law enforcement agency is not required to notify the judge or record in the person's case file if the person is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed those duties prior to the transfer.

³⁶ "Applicable criminal case" means a criminal case in which the judge requires the defendant to be confined in a secure correctional facility and the judge either indicates in the record under s. 908.105, F.S., that the defendant is subject to an immigration detainer, or otherwise indicates the defendant is subject to a transfer into federal custody.

³⁷ "Secure correctional facility" means a state correctional institution as defined in s. 944.02, F.S., or a county detention facility or a municipal detention facility as defined in s. 951.23, F.S.

³⁸ Section 908.104(3)(b), F.S.

³⁹ Section 908.104(3)(c), F.S.

⁴⁰ Section 908.104(4), F.S.

information and cooperation in the investigation and prosecution of the offense.⁴¹ An agency that withholds information regarding the immigration information of a victim or witness must document cooperation in the investigative records related to the offense and retain the records for at least 10 years.⁴² A law enforcement agency is not authorized to detain an alien unlawfully present in the United States pursuant to an immigration detainer solely because the alien witnessed or reported a crime or was the victim of a criminal offense.⁴³

Additionally, a state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related any alien unlawfully present in the United States if he or she has been a necessary witness or victim of a specified crime.⁴⁴

Any executive or administrative state, county, or municipal officer who violates his or her duties under ch. 908, F.S., relating to federal immigration enforcement, may be subject to action by the Governor in the exercise of his or her authority under the Florida Constitution and state law. The Governor may initiate judicial proceedings in the name of the state to enforce officers' compliance with any duty or to restrain any unauthorized act contrary to ch. 908, F.S.⁴⁵

Additionally, the Attorney General may file a suit against any local governmental entity or local law enforcement agency in a court of competent jurisdiction for declaratory or injunctive relief. The court must enjoin an unlawful sanctuary policy if the local governmental entity or local law enforcement agency violates ch. 908, F.S.⁴⁶ The court has continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceedings. An order approving a consent decree or granting an injunction must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy.⁴⁷

Criminal Laws Related to Illegal Immigration

Voting

In Florida, it is a third degree felony for a person, knowing he or she is not a qualified elector, to willfully vote at any election.⁴⁸

While Florida law does not have any crime specifically related to an unauthorized alien voting in an election, 18 U.S.C. s. 611, provides that it is unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commission, unless:

- The election is held partly for some other purpose;

⁴¹ Section 908.104(5), F.S.

⁴² Section 908.104(6), F.S.

⁴³ Section 908.104(7), F.S.

⁴⁴ Section 908.104(8), F.S., specified crimes include domestic violence, rape, sexual exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping, false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion, and witness tampering.

⁴⁵ Section 908.107(1), F.S.

⁴⁶ Section 908.107(2)-(3), F.S.

⁴⁷ Section 908.107(3)-(4), F.S.

⁴⁸ Section 104.15, F.S.

- Aliens are authorized to vote for such other purpose under a state constitution or local ordinance; and
- Voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

Violation of this section is punishable by a fine and imprisonment for not more than one year.⁴⁹

Florida RICO Act

The “Florida RICO (Racketeer Influenced and Corrupt Organization) Act” is the short title for ss. 895.01-895.06, F.S.⁵⁰ “Racketeering activity” means committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any of a number of offenses listed in the definition.⁵¹ In 2023, the Legislature added the offense of human smuggling to the list of offenses that may constitute racketeering activity.⁵²

Section 895.03, F.S. provides that it is unlawful for any person:

- Who with criminal intent has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt⁵³ to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.⁵⁴
- Through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.
- Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.
- To conspire or endeavor to violate any of the previously described activity.⁵⁵

⁴⁹ 18 U.S.C. s. 611; This section does not apply if each natural parent, or adoptive parent, is or was a citizen; the alien permanently resided in the United States prior to attaining the age of 16; and the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States

⁵⁰ Section 895.01, F.S.

⁵¹ Section 895.02(8), F.S. These offenses include violations of specified Florida laws (e.g., Medicaid fraud, kidnapping, human trafficking, and drug offenses) as well as any conduct defined as “racketeering activity” under 18 U.S.C. s. 1961(1)

⁵² Section 895.02(8)(a)27., F.S.

⁵³ Section 895.02(12), F.S., “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of specified Florida laws (e.g., various gambling offenses) as well as any gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

⁵⁴ Section 895.02(5), F.S., “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal gang as defined in s. 874.03, F.S., constitutes an enterprise.

⁵⁵ Section 895.03(4), F.S.

Section 895.04, F.S., provides that a conviction for engaging in the above activities results in a first degree felony.^{56, 57}

Reclassification of Crimes Committed After Unlawful Reentry

Reclassification occurs when the Legislature *increases the degree of a conviction*. The reclassification attaches at the time the charges are filed.⁵⁸ Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.⁵⁹

In 2024 the Legislature enacted s. 775.0848, F.S., to reclassify the penalty for committing a felony if the person committing such felony has previously been convicted for unlawful reentry by a removed alien pursuant to 8 U.S.C. s. 1326. Section 775.0848, F.S., provides that:

- A felony of the third degree is reclassified to a felony of the second degree.⁶⁰
- A felony of the second degree is reclassified to a felony of the first degree.⁶¹
- A felony of the first degree is reclassified to a life felony.⁶²

According to U.S. Customs and Border Protection the term “criminal noncitizens” refers to individuals who have been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol. In 2024, there were 17,048 arrests of criminal noncitizens, almost 1,800 more arrests than the previous year. Of those arrests, 10,935 are for illegal re-entry after prior deportation.⁶³

Reentry to the United States by aliens⁶⁴ who have been removed from the United States is addressed in 8 U.S.C.A. 1326 as follows:

- Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States...shall be fined under Title 18, or imprisoned not more than 2 years, or both.

⁵⁶ A first-degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

⁵⁷ Section 895.05(2), F.S., In addition to criminal penalties under s. 895.04, F.S., s. 895.05, F.S., imposes civil liability for violations of the Florida RICO Act, including forfeiture to the state of all property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the act

⁵⁸ *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

⁵⁹ *Cf. Spicer v. State*, 615 So.2d 725, 726 (Fla. 2d DCA 1993) (reversing reclassification of robbery with a mask conviction because “[p]enal statutes must be construed in terms of their literal meaning [I]f the legislature had intended section 775.0845 [Florida Statutes (1989)] to reclassify offenses, it would have so stated”).

⁶⁰ A third-degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

⁶¹ A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first-degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

⁶² A first-degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

⁶³ United States Customs and Border Protection, *Criminal Noncitizen Statistics*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics> (last visited February 9, 2025).

⁶⁴ The term “alien” means any person not a citizen or national of the United States. 8 U.S.C.A. 1101(a)(3).

- Any alien whose removal was subsequent to a conviction for the commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony),⁶⁵ such alien shall be fined under Title 18, imprisoned not more than 10 years, or both.
- Any alien whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

The term “removal” includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either federal or state law.⁶⁶

Any alien deported prior to completion of term of imprisonment, and who enters, attempts to enter, or is at any time found in, the United States must be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien is subject to penalties relating to the reentry of deported aliens as provided.⁶⁷

Penalty Enhancements

Penalty enhancements are different than reclassifications and refer to the authority of a judge to impose a *more severe sentence* for a convicted offense when certain factual findings are made.⁶⁸

A good example of a penalty enhancement statute is the habitual felony offender law found in s. 775.084(1)(a), F.S. “Habitual felony offender” means a defendant for whom the court may impose an extended term of imprisonment if it finds that:

- The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.
- The felony for which the defendant is to be sentenced was committed:
 - While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or
 - Within 5 years of the date of the conviction of the defendant’s last prior felony or other qualified offense, or within 5 years of the defendant’s release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.
- The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13, F.S., relating to the purchase or the possession of a controlled substance.
- The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this law.

⁶⁵ “Aggravated felony” is defined in 8 U.S.C.A. 1101(a)(43)(A)-(U). The term applies to a felony offense, whether in violation of Federal or State law, and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. 8 U.S.C.A.1101(a).

⁶⁶ 8 U.S.C.A. 1326(b).

⁶⁷ 8 U.S.C.A. 1326(c).

⁶⁸ *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

- A conviction of a felony or other qualified offense necessary to the operation of this law has not been set aside in any postconviction proceeding.

In a separate proceeding, if the court finds that the defendant meets the criteria for imposing such sanction, the court must sentence the defendant as a habitual felony offender unless the court finds that it is not necessary for the protection of the public. The court may sentence the habitual felony offender as follows:

- In the case of a life felony or a felony of the first degree, for life.
- In the case of a felony of the second degree, for a term of years not exceeding 30.
- In the case of a felony of the third degree, for a term of years not exceeding 10.⁶⁹

Criminal Gangs

As defined in s. 874.03, F.S., “criminal gang” means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including, but not limited to, terrorist organizations and hate groups. Additionally, “criminal gang-related activity” means:

- An activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing or position within a criminal gang;
- An activity in which the participants are identified as criminal gang members or criminal gang associates acting individually or collectively to further any criminal purpose of the gang;
- An activity that is defined as criminal gang activity by a documented reliable informant; or
- An activity that is identified as criminal gang activity by an informant of previously untested reliability and such identification is corroborated by independent information.⁷⁰

Section 874.04, F.S., provides enhanced penalties for gang-related criminal offenses. Upon finding the charged offense was for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the penalty for any felony or misdemeanor may be enhanced to the next degree of offense.⁷¹

Section 874.05, F.S., provides it is a third degree felony for a person who intentionally causes, encourages, solicits, or recruits another person to become a criminal gang member where a condition of membership or continued membership is the commission of any crime.⁷² This section also provides it is a second degree felony for a person who intentionally causes, encourages, solicits, or recruits another person under the age of 13 to become a criminal gang member where a condition of membership or continued membership is the commission of any crime.⁷³ Enhanced penalties are provided for second or subsequent offenses under this section.

⁶⁹ Sections 775.084(1)(a), (3)(a), and (4)(a), F.S.

⁷⁰ Section 874.03(4)(a)-(d), F.S.

⁷¹ Section 874.04, F.S. For purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., such felony offense is ranked as provided in s. 921.022, F.S., or s. 921.0023, F.S., and without regard to the penalty enhancement in this subsection.

⁷² Section 874.05(1), F.S.

⁷³ Section 874.05(2), F.S.

Sentencing

Criminal Punishment Code

The Criminal Punishment Code⁷⁴ is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10). Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates.

Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S. Currently, a felony of the third degree is ranked as a level 1 offense, and a second degree felony is ranked as a level 4 offense.⁷⁵

Types of Felonies

Florida defines the term "forcible felony," in s. 776.08, F.S. Under this section, forcible felonies include: Treason; Murder; Manslaughter; Sexual battery; Carjacking; Home-invasion robbery; Robbery; Burglary; Arson; Kidnapping; Aggravated assault; Aggravated battery; Aggravated stalking; Aircraft piracy; Unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

Similarly, federal law also groups specific offenses together in what is referred to as an "aggravated felony." An aggravated felony under 8 U.S.C. s. 1101, includes, in part:

- Murder, rape, or sexual abuse of a minor;⁷⁶
- Illicit trafficking in a controlled substance,⁷⁷ including a drug trafficking crime.^{78, 79}
- Illicit trafficking in firearms or destructive devices⁸⁰ or in explosive materials;⁸¹

⁷⁴ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

⁷⁵ Section 921.0023(1) and (2), F.S.

⁷⁶ 8 U.S.C.A. § 1101(a)(43)(A).

⁷⁷ As defined in section 802 of Title 21, the term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V. The term does not include distilled spirits, wine, malt beverages, or tobacco. 21 U.S.C.A. § 802(6).

⁷⁸ As defined in section 924(c) of Title 18, the term "drug trafficking crime" means any felony punishable under the Controlled Substances Act, the Controlled Substances Import and Export Act, or chapter 705 of title 46. 18 U.S.C.A. § 924(c)(2).

⁷⁹ 8 U.S.C.A. § 1101(a)(43)(B).

⁸⁰ As defined in section 921 of Title 18, the term "destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the devices described. Additionally, any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into any destructive device described from which a destructible device may be readily assembled. 18 U.S.C.A. § 921(a)(4).

⁸¹ 8 U.S.C.A. § 1101(a)(43)(C).

- An offense described in section 1956 of Title 18 relating to laundering of monetary instruments or section 1957 of that title relating to engaging in monetary transactions in property derived from specific unlawful activity if the amount of the funds exceed \$10,000;⁸²
- Certain offenses related to firearms;⁸³
- Certain crimes of violence;^{84,85}
- Certain theft or burglary offenses;⁸⁶
- Certain offenses relating to child pornography;⁸⁷
- Certain offenses relating to prostitution and human trafficking that;⁸⁸
- Certain offenses relating to alien smuggling;⁸⁹ and
- An offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness.⁹⁰

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after September 30, 1996.⁹¹

Pretrial Detention and Bail

Article I, s. 14 of the Florida Constitution states that “[u]nless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.”

A person must appear before a judge within 24 hours of arrest for a “first appearance.”⁹² During first appearance, a judge advises a defendant of the charges for which he or she was arrested, determines whether there is probable cause that a defendant committed such an offense, and advises a defendant of specified rights.⁹³ If a judge determines that probable cause exists, the judge then determines whether a defendant is entitled to pretrial release. A judge may grant

⁸² 8 U.S.C.A. § 1101(a)(43)(D).

⁸³ 8 U.S.C.A. § 1101(a)(43)(E).

⁸⁴ As defined in section 16 of Title 18, the term “crime of violence” means an offense that has an element the use, attempted use, or threatened use of physical force against the person or property of another; or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. 18 U.S.C.A. § 16.

⁸⁵ 8 U.S.C.A. § 1101(a)(43)(F).

⁸⁶ 8 U.S.C.A. § 1101(a)(43)(G).

⁸⁷ 8 U.S.C.A. § 1101(a)(43)(I).

⁸⁸ 8 U.S.C.A. § 1101(a)(43)(K).

⁸⁹ 8 U.S.C.A. § 1101(a)(43)(N).

⁹⁰ 8 U.S.C.A. § 1101(a)(43)(S).

⁹¹ 8 U.S.C.A. § 1101(a)(43).

⁹² Fla. R. Crim. P. 3.130.

⁹³ *Id.*

pretrial release either by setting a specified bail amount or releasing the defendant on his or her own recognizance.⁹⁴

Section 903.046, F.S., provides that the purpose of bail proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to ensure the safety of the public. When determining whether to release a defendant on bail or other conditions, and what that bail or conditions may be, the court must consider certain factors. Such factors include, in part:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The nature and probability of danger which the defendant's release poses to the community.
- Any other facts the court considers relevant.⁹⁵

While Florida does not specify that the court may consider a defendant's immigration status when setting bail, courts have found that this may be considered in the court's analysis.⁹⁶

Issuance of Driver Licenses and Identification Cards

Section 322.08, F.S., establishes requirements governing the application process for driver licenses and identification cards. All applicants must present primary identification; proof of social security number or secondary identification; and two documents that demonstrate a residential address in Florida. Non-U.S. citizens are required to produce proof of legal presence documentation issued through the U.S. Citizenship and Immigration Services. Noncitizens applying for an original driver license are generally issued a 60-day temporary paper permit without a photo and a receipt. Non-U.S. citizens applying for an identification card are issued a receipt.

Upon the review and verification of identity and legal status by the Department of Highway Safety and Motor Vehicles, and satisfactory completion of required knowledge and skills examinations, a driver license or identification card is issued within 60 days and mailed to the address on the driver record. The driver license or identification card is issued for the period of time specified in the relevant U.S. Citizenship and Immigration Services documentation, up to a maximum of four years. For non-citizens with legal presence the word "TEMPORARY" will appear in red on the front, right lower margin of the driver license or identification card.⁹⁷

Section 322.19, F.S., provides that, with certain exceptions, whenever any person, after applying for or receiving a driver license or identification card, changes his or her legal name, that person must within 30 days obtain a replacement license or card that reflects the change. Similarly, if a person, after applying for or receiving a driver license or identification card, changes the legal

⁹⁴ Fla. R. Crim. P. 3.131.

⁹⁵ Section 903.046, F.S.

⁹⁶ See *United States v. Lozano, United States*, 2009 WL 3052279 (M.D. Ala, 2009).

⁹⁷ Department of Highway Safety and Motor Vehicles, *Frequently Asked Questions: If I am a non-immigrant with legal presence and I want to renew my Class E or Commercial Driver License (CDL), how long will the license be valid and what is the cost?*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/what-to-bring/frequently-asked-questions/>. (last visited February 9, 2025).

residence or mailing address in the application, license, or card, the person must, within 30 days after making the change, obtain a replacement license or card that reflects the change. A violation of this requirement is a non-moving violation, punishable as provided s. 318.18, F.S.

For purposes of documenting proof of lawful presence for the issuance of a driver license or identification card, s. 322.08, F.S., provides that the Department of Highway Safety and Motor Vehicles may require an unexpired foreign passport with an unexpired U.S. visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States. While the term “valid passport” is used in various sections of the Florida Statutes, the term is not currently defined.

Department of Agriculture and Consumer Services

The Commissioner of Agriculture serves as the head of the Department of Agriculture and Consumer Services (DACS), which is created under s. 20.14, F.S. The DACS currently has 12 divisions within the department. Bureaus may be established as deemed necessary.⁹⁸

The office of Agricultural Law Enforcement has certified law enforcement positions in two bureaus: the Bureau of Uniform Services and the Bureau of Investigative Services.⁹⁹ When it comes to protecting Florida agriculture, the Bureau of Uniform Services is the first line of defense at the state borders. The DACS operates 23 interdiction stations on 19 highways going into and out of Florida.¹⁰⁰ Such stations are open 24 hours a day, 365 days a year. Trucks, rental trucks, vans, trailers, and any vehicles carrying agricultural, horticultural, or livestock products.¹⁰¹

Education

Florida’s education system has also been affected by the influx in immigration. Florida schools may provide education to those who are here lawfully, unlawfully, or to children whose parents are here unlawfully.

Florida Public Postsecondary Institutions

Florida’s system of public postsecondary education consists of:

- The State University System (SUS), composed of the 12 state universities.¹⁰² Each state university is administered by a local board of trustees.¹⁰³ The system is supervised by the Board of Governors.¹⁰⁴

⁹⁸ Section 20.14, F.S., Divisions within the DACS include: Administration; Agriculture Environmental Services; Animal Industry; Aquaculture; Consumer Services; Food Safety; Florida Forest Service; Fruit and Vegetables; Licensing.

⁹⁹ The Department of Agriculture and Consumer Services, *About the Office of Agricultural Law Enforcement*, available at <https://www.fdacs.gov/Divisions-Offices/Agricultural-Law-Enforcement/Become-a-Member-of-the-Office-of-Agricultural-Law-Enforcement/About-OALE> (last visited February 9, 2025).

¹⁰⁰ *Id.*

¹⁰¹ The Department of Agriculture and Consumer Services, *Agriculture Inspection stations*, available at <https://www.fdacs.gov/Agriculture-Industry/Agricultural-Inspection-Stations> (last visited February 9, 2025).

¹⁰² Section 1000.21(9), F.S.

¹⁰³ Art. IX, s. 7(b), FLA. CONST.

¹⁰⁴ Art. IX, s. 7(b), FLA. CONST. *See also* s. 1001.705, F.S.

- The Florida College System (FCS), composed of 28 institutions with defined service areas.¹⁰⁵ A local board of trustees governs each FCS institution, and the State Board of Education supervises the system.¹⁰⁶
- Career centers (also called technical colleges), which are a part of a district school system and offer technical courses leading toward a career certificate or industry certification.¹⁰⁷ There are 47 career centers, each governed by its district school board.
- Charter technical career centers, which are public schools or public technical centers operated under a charter granted by a district school board or FCS institution board of trustees.¹⁰⁸ Currently, there is one charter technical career center in Florida—Lake Technical College, chartered under the Lake County School Board.

Residency Status for Tuition Purposes

Students must be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by public postsecondary institutions. Students pay differing tuition rates based on their status as a resident or nonresident of Florida.¹⁰⁹

To qualify as a resident for tuition purposes, a person, or if that person is a dependent child, his or her parent or parents, must have established legal residence in Florida and must have maintained legal residence for at least 12 consecutive months immediately prior to his or her initial enrollment in the public postsecondary institution.¹¹⁰

Each public postsecondary institution must make a residency determination based on the submission of at least two forms of documentation specified in law.¹¹¹

Tuition and Out-of-State Fees

Florida law defines “tuition” as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state. A student who is classified as a resident for tuition purposes qualifies for the in-state tuition rate. An out-of-state fee is the additional fee for instruction charged to a student who does not qualify for the in-state tuition rate,¹¹² unless these costs are exempted or waived.¹¹³

The resident undergraduate tuition rate for the SUS is set at \$105.07 per credit hour.¹¹⁴ The SUS average tuition and out-of-state fee is \$570.01 per credit hour.

¹⁰⁵ Section 1000.21(5), F.S.

¹⁰⁶ Art. IX, S. 8(b), FLA. CONST.

¹⁰⁷ Section 1001.44(a), F.S.

¹⁰⁸ Section 1002.34(a), F.S.

¹⁰⁹ Section 1009.21, F.S.

¹¹⁰ Section 1009.21(2)(a), F.S. This section also specifies other circumstances that may classify a person as a resident for tuition purposes.

¹¹¹ Section 1009.21(3), F.S. Documentation includes, but is not limited to, a Florida voter registration card, Florida driver’s license, Florida vehicle registration, homestead exemption (which is a single, conclusive proof of residency), proof of full-time Florida employment, declaration of domicile, Florida incorporation, lease agreements, or utility bills.

¹¹² Section 1009.01, F.S.

¹¹³ Section 1009.24(2), F.S.

¹¹⁴ Section 1009.24(4)(a), F.S.

The FCS tuition rate for college credit courses is \$71.98 per credit hour, and the out-of-state fee is \$215.94 per credit hour. Baccalaureate degree program resident tuition is \$91.79 per credit hour, and the total tuition and out-of-state fee may not exceed 85 percent of the tuition and out-of-state fee of the nearest state university.¹¹⁵ If a career center offers college credit courses as a part of a career associate degree program, the standard tuition is also \$71.98 per credit hour, and the out-of-state fee is \$215.94 per credit hour.¹¹⁶

For non-college-credit career programs at career centers and FCS institutions, the standard tuition is \$2.33 per contact hour, and the out-of-state fee is \$6.99 per contact hour.¹¹⁷ Each district school board or FCS institution board of trustees may adopt tuition and out-of-state fees that vary no more than 5 percent below or 5 percent above such fees.¹¹⁸

Out-of-State Fee Waiver

In 2014, the Florida Legislature established an out-of-state fee waiver for students, including, but not limited to, students who are undocumented for federal immigration purposes, who meet certain conditions:¹¹⁹

- Attendance in a secondary school in Florida for three consecutive years immediately before graduating from a high school in Florida.
- Application for enrollment in a state university, FCS institution, or technical center within 24 months after high school graduation.
- Submission of an official Florida high school transcript.

The fee waiver may both include students who are undocumented for federal immigration purposes, as well as students who are lawfully present in the United States, but whose parents are not residents of Florida. The exact number of undocumented students receiving the out-of-state fee waiver is unknown.

The out-of-state fee waiver is applicable for 110 percent of the required credit hours of the degree or certificate program for which the student is enrolled.¹²⁰ A student who receives an out-of-state fee waiver is not considered a Florida resident and is not eligible for financial aid awards and tuition assistance grants.¹²¹

The below table shows, for the 2023-2024 fiscal year, the number of students receiving an out-of-state fee waiver from a state university, FCS institution, or career center, and the total value of the waived out-of-state fees. The totals include all non-resident students, regardless of lawful status.

¹¹⁵ Section 1009.23(3), F.S.

¹¹⁶ Section 1009.22(4), F.S.

¹¹⁷ Section 1009.22(3)(c), F.S.

¹¹⁸ Section 1009.22(3)(d), F.S.

¹¹⁹ Section 1009.26(12), F.S.

¹²⁰ Section 1009.26(12)(b), F.S.

¹²¹ The general requirements for student eligibility for state financial aid and tuition assistance in s. 1009.40, F.S., specifies legal residence in Florida. *See also* Board of Governors Regulation 7.008.

Institutions	Number of Students	Total Value of Fee Waiver
State University System ¹²²	2,005	\$20,009,990.00
Florida College System ¹²³	4,573	\$20,649,408.44
District Career Centers ¹²⁴	3	\$12,584.70
Total	6,581	\$40,671,983.14

At least 25 states, including Florida, currently have laws and policies that permit certain students who have attended and graduated from secondary schools in their state to pay in-state tuition at their state's public postsecondary institutions, regardless of their immigration status.¹²⁵ There are nine states that block access to in-state tuition for undocumented students.¹²⁶

III. Effect of Proposed Changes:

The bill strengthens the state's approach to illegal immigration by providing coordination within the state and with federal immigration agencies.

State Board of Immigration Enforcement (Section 16)

The bill creates s. 908.1031, F.S., to create the State Board of Immigration Enforcement (board) within the Florida Department of Law Enforcement (FDLE). The Governor and Cabinet serve as the agency head of the board, and all board action must be by unanimous vote. The board is not subject to the control, supervision, or direction of the FDLE in any manner.

The board is the chief immigration enforcement officer and must:

- Serve as a resource for the U.S. Immigration and Customs Enforcement (ICE).
- Coordinate and cooperate with the Federal Government in matters related to immigration.
- Coordinate with and provide assistance to law enforcement related to the enforcement of federal immigration laws and monitor local government compliance with ch. 908, F.S.
- Administer the Local Law Enforcement Immigration Grant Program.
- Collect data related to operations with the ICE from law enforcement agencies and report annually, by December 15, to the Legislature on data collected, the level of coordination and cooperation with the federal government, recommendations for improvement in the coordination and cooperation with the Federal Government, and the number of trained officers under the federal 287(g) program in this state.
- Actively seek Congressional action to amend the National Crime Prevention and Privacy Compact to require party states to share information related to an individual's immigration status.

¹²² Florida Board of Governors, *Fee Waivers*, available at <https://www.flbog.edu/resources/data-analytics/dashboards/fee-waiver-summary/> (select *Non-Resident (5012)* waiver label) (last visited February 9, 2025).

¹²³ Email, Florida Department of Education (January 24, 2025) (on file with the Committee on Appropriations).

¹²⁴ Email, Florida Department of Education (January 25, 2025) (on file with the Committee on Appropriations).

¹²⁵ National Immigration Law Center, *Basic Facts About In-State Tuition for Undocumented Immigrant Students*, available at <https://www.nilc.org/wp-content/uploads/2024/06/instate-tuition-basicfacts-2024-06-1-1.pdf>. (last visited February 9, 2025).

¹²⁶ Higher ED Immigration Portal, *States*, available at <https://www.higheredimmigrationportal.org/states/> (last visited February 9, 2025).

- Report to the Legislature by March 24, 2025, the number of vacant beds available in state correctional institutions and facilities and county detention facilities which can be sublet to the ICE for use as detention beds.

The board is authorized to adopt necessary rules. The FDLE must provide administrative support to the board.

State Immigration Enforcement Council (Section 17)

The bill creates s. 908.1032, F.S. to create the State Board of Immigration Enforcement Council (council) for the purpose of advising the board. The council is composed of eight members. The Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture must each appoint one police chief. The president of the Senate and the Speaker of the House must each appoint two sheriffs. The State Board of Immigration Enforcement must unanimously elect a sheriff from among the council's membership to serve as chair.

Members must be appointed to terms of four years, and any vacancy must be filled within 2 weeks of such vacancy. To create staggered terms, the initial members appointed by the Cabinet serve 2-year terms. Membership on the council does not disqualify a member from holding any other public office or being employed by a public entity, except that no member of the Legislature can serve on the council. Members of the council must serve without compensation.

The council must meet by April 1, 2025, and quarterly thereafter. The council must:

- Assist the board, upon unanimous request by the board, with issues related to immigration enforcement.
- Recommend to the board expenses related to federal 287(g) program participation that should be reimbursable under the Local Law Enforcement Immigration Grant Program (described below) and funding criteria for the grant program.
- Request guidance from the ICE for training opportunities and strategies to further federal 287(g) program participation and make related recommendations to the board to expand the grant program to reimburse costs related to new training activities.
- Advise the board on the efforts of local law enforcement agencies' efforts related to enforcement of federal immigration laws.
- Provide recommendations on financial and other resources necessary to aid local law enforcement agencies.
- Provide recommendations to enhance information sharing between state entities, local governmental entities, law enforcement agencies, and the Federal Government in the enforcement of federal immigration laws. The recommendations must provide for enhanced use and coordination of the following centers, including but not limited to:
 - The Federal Bureau of Investigation's Terrorist Screening Center.
 - The U.S. Customs and Border Protection's National Targeting Center.
 - The U.S. Department of Homeland Security Fusion Center.
 - The U.S. Drug Enforcement Administration's Special Operations Unit.
- Provide recommendations on strategies to increase the number of available detention beds for use by the ICE.

- Upon unanimous request of the board, assist the board in data collection from law enforcement agencies for the board's annual report.

The FDLE must provide administrative support to the council.

Local Law Enforcement Immigration Grant Program (Sections 18,28)

The bill creates s. 908.1033, F.S., to establish the Local Law Enforcement Immigration Grant Program within the State Board of Immigration Enforcement to award grants to support local law enforcement agencies, which include chief correctional officers operating county detention facilities, in their cooperation and coordination with federal immigration agencies. The board must award any funds specifically appropriated for the program to reimburse expenses or provide bonus payments. The council is directed to make recommendations to the board on other expenses that should be reimbursable and funding criteria for the program.

A local law enforcement agency may apply to the board for reimbursement of expenses incurred in its cooperation and coordination with federal immigration agencies in the enforcement of federal immigration laws. Reimbursements may be requested for the following eligible expenses:

- Subletting detention beds to the ICE.
- Equipment, travel, and lodging related to the federal 287(g) program.
- Training programs, including certified apprenticeship programs, related to supporting the enforcement of federal immigration laws.
- Hardware or software essential to assisting the Federal Government in its enforcement of federal immigration laws.

A local law enforcement agency may apply to the board to provide bonus payments for the agency's local law enforcement officers who participate in U.S. Department of Homeland Security at-large task force operations. The local law enforcement agency may apply for a bonus of up to \$1,000 for each local law enforcement officer, including applicable federal income taxes, employed within that agency. The applying local law enforcement agency must certify that the officer participated in one or more operations and provide any other information required by the board. Eligible participation does not include operations that occur solely at a correctional or detention facility.

The grants must be awarded on a first-come, first-served basis. The total amount of grants awarded may not exceed funding appropriated for the grant program. Upon receiving an application, the executive director of the board must review the application to ensure it is complete, and at least quarterly, make a recommendation to the board for approval or denial of the application.

A grant application recommended for approval by the executive director must be unanimously approved by the board or by the executive director if authorized by the board in rule. Administrative rules adopted by the board may allow for the executive director to approve grants of up to \$25,000 without board approval. Upon approval, the board must submit a 14-day budget amendment to the chair and vice chair of the Legislative Budget Commission before a grant can be issued to a local law enforcement agency. Either the chair or vice chair may object to the

amendment, which voids the action until addressed by the Legislative Budget Commission or the Legislature.

The board must adopt rules to implement this section. The board is granted emergency rulemaking authority to adopt rules to implement this section.

Enforcing Cooperation with Federal Immigration Authorities (Sections 15, 19, 20, 21)

The bill amends s. 908.104, F.S., to provide that a state entity, local governmental entity, or law enforcement agency, may not prohibit or in any way restrict a law enforcement officer from executing or assisting in the execution of a lawful judicial warrant.

Additionally, the bill amends s. 908.102, F.S., to amend the term “sanctuary policy,” to include any law, policy, practice, procedure, or custom adopted to prohibit or impede a law enforcement agency from:

- Executing a lawful judicial warrant; or
- Participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law.

The bill amends s. 908.105, F.S., to provide if any county, district, authority, municipality or other local government adopts an ordinance, a regulation, a rule, or a policy refusing to comply with or otherwise directing local officials, employees, or others to refuse to comply with an immigration detainer issued by a federal agency, the Attorney General must initiate judicial proceedings to enforce compliance. If the court determines that a violation was knowing and willful, the court must assess a civil fine of up to \$5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred.

The bill amends s. 908.107, F.S., to specify that any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor, *including potential suspension from office*.

The bill amends s. 908.11, F.S., to require a sheriff or the chief correctional officer operating a county detention facility to enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the 287(g) program. The board is required to approve the termination of any such agreement. Beginning April 1, 2025, each sheriff or chief correctional officer operating a county detention facility must provide the board with quarterly status updates of such written agreements.

Training with Federal Immigration Authorities (Section 29)

The bill makes legislative findings that the state’s criminal justice training centers as well as facilities of the Department of Military Affairs, such as the Camp Blanding Joint Training Center, are highly qualified and critical strategic year-round assets for training. The Legislature has made significant investments to make Camp Blanding Joint Training Center the premier facility in the southeast. In order to support the anticipated training and operations involving multiple federal and state and local agencies and given the scale and value of this state’s assets,

the Department of Military Affairs and local law enforcement must work with the Office to ensure that the state's federal partners can access and use the state's physical assets in order to further the nation's mission to address illegal immigration. Such activities include outreach to federal partnership as well as entering into agreements for the use of such facilities.

Unauthorized Alien Transport Program (Sections 23, 27)

The bill creates s. 908.13, F.S., to codify the Unauthorized Alien Transport Program within the Division of Emergency Management (DEM) for the purpose of facilitating the transport of unauthorized aliens, consistent with federal law.

The following specified requirements must be met before the DEM may provide transport:

- The ICE must specifically request assistance from the DEM with transporting unauthorized aliens pursuant to specific legal authority.
- The ICE must reimburse the state for the actual cost of assisting with the transport of unauthorized aliens.
- The transportation must be under the direct control and supervision of the ICE.

This section is repealed on June 30, 2027.

The bill repeals Section 1 of ch. 2023-3, Laws of Florida, which contains similar provisions relating to the transport of unauthorized aliens.

Other Immigration Provisions

The bill makes numerous changes to enhance criminal penalties for offenses committed by unauthorized aliens, provides requirements for driver licenses, and modifies eligibility requirements for out-of-state fee waivers.

Criminal Law (Sections 19, 20)

The bill amends s. 908.105, F.S., to provide that a law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency must notify the state attorney that the person is subject to an immigration detainer.

The bill amends s. 908.104, F.S., to provide that a sheriff or chief correctional officer operating a county detention facility must provide, upon request from a federal immigration agency, a list of all inmates booked into a county detention facility and any information regarding each inmate's immigration status.

Additionally, s. 908.104, F.S., is revised to specify that *consistent with all duties created in the state and federal law, state and local law enforcement agencies, and any official responsible for directing or supervising such agencies*, shall use best efforts to support the enforcement of federal immigration law.

Section 908.104, F.S., provides that a state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related to a victim of or a witness to a criminal offense if the victim or witness timely and in good faith

responds to the entity's or agency's request for information and cooperates in the investigation or prosecution of such offense. The bill specifies that such a victim or witness *must be necessary to the investigation or prosecution of such crime, and that such crime must occur in the United States.*

Section 908.104, F.S., provides that a state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related to a necessary witness or victim of specified crimes. The bill specifies that the crime *must occur in the United States, and that documentation must be relied upon to verify that the person was a necessary witness or victim to the crime.*

Criminal Penalties (Sections 1, 9, 10, 11, 12, 24)

The bill creates s. 104.155, F.S., to provide that it is a third degree felony for a person who is not a qualified elector because he or she is noncitizen to willfully vote in any election. A person's ignorance of his or her citizenship status or a person's bona fide belief of his or her citizenship status cannot be raised as a defense in a prosecution.

Any person who aids or solicits another to commit the crime described above with knowledge that such person is noncitizen, commits a third degree felony.

The bill amends s. 895.02, F.S., to add aiding or soliciting a noncitizen alien in voting to the list of crimes that may constitute racketeering activity.

The bill amends s. 921.0022, F.S., to rank the third degree felonies of a noncitizen willfully voting, or aiding or soliciting unauthorized aliens in voting as a level four offense in the offense severity ranking chart.

The bill creates s. 775.0824, F.S., to provide mandatory minimum prison terms for dangerous unauthorized alien offenders. A dangerous unauthorized alien offender is any unauthorized alien¹²⁷ who is a member of a criminal gang, including any member of a transnational crime organization, and who commits or attempts to commit a felony offense in this state.

For an offense committed on or after the effective date of this act, if the state attorney determines that a person is a dangerous unauthorized alien offender, the state attorney must seek to have the court sentence the person as a dangerous unauthorized alien offender.

In a separate proceeding conducted pursuant to this section, upon proof from the state attorney that establishes by a preponderance of the evidence that the person is a dangerous unauthorized alien offender, such person is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- For a life felony, by a term of life imprisonment;
- For a first degree felony, by a term of imprisonment for 30 years;

¹²⁷ "Unauthorized alien" means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U. S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

- For a second degree felony, by a term of imprisonment for 15 years; or
- For a third degree felony, by a term of imprisonment for 5 years.

A person who is sentenced as a dangerous unauthorized alien offender must be released only by expiration of sentence and must not be eligible for parole, control release, or any form of early release. A dangerous unauthorized alien offender must serve 100 percent of his or her court-imposed sentence.

The bill amends s. 775.0848, F.S., to remove the requirement that a person must have previously been convicted of unlawful reentry into the United States, for a new crime to be reclassified to the next higher degree. Under the bill, the penalty for misdemeanor and felony crimes will be reclassified as follows if such crime was committed by an unauthorized alien:

- A second degree misdemeanor is reclassified to a first degree misdemeanor.
- A first degree misdemeanor is reclassified to a third degree felony.
- A third degree felony is reclassified to a second degree felony.
- A second degree felony is reclassified to a first degree felony.
- A first degree felony is reclassified to a life felony.

The bill amends s. 874.03, F.S., to add transnational crime organizations, to the list of groups that may be considered a criminal gang.

A transnational crime organization means any group, network, or association of persons, at least one of which is an unauthorized alien as defined in 8 U.S.C. ss. 1101, that routinely facilitates the international trafficking of drugs, humans, or weapons, or the international smuggling of humans.

Pretrial Release (Section 13, 14)

The bill amends s. 903.046, F.S., to provide that the court must consider a defendant's immigration status when determining whether to release a defendant on bail or other conditions, and what that bail or conditions may be.

The bill amends s. 907.041, F.S., to revise legislative intent that persons posing a substantial flight risk because of their status as unauthorized aliens be detained upon arrest.

An unauthorized alien who is charged with a forcible felony has no presumption in favor of release on nonmonetary condition, and immigration status to the list of circumstances that must be investigated or verified before a person may be released on nonmonetary conditions under the supervision of a pretrial release service.

An unauthorized alien who is arrested for a forcible felony is not eligible for release until he or she appears for a first appearance hearing. The bill creates a rebuttable presumption that the defendant is a flight risk and that no conditions of release will ensure his or her appearance and trial if the court determines there is probable cause to believe the defendant committed a forcible felony and further determines by a preponderance of the evidence that the defendant is an unauthorized alien. If the defendant cannot rebut such presumption, by a preponderance of the evidence, then he or she must be ordered to pretrial detention.

The defendant may request up to a 48-hour continuance of his or her first appearance hearing and the state must be entitled to one continuance for good cause.

Driver License and Motor Vehicle Requirements (Sections 2, 3, 4, 5, 6, 7, 8)

The bill clarifies that proof of identity for the issuance of driver licenses and motor vehicle titles and registrations may include certain valid, unexpired passports. The bill amends ss. 319.001, 320.01, and 322.08, F.S., to create a standard definition for valid passport. Specifically, a “valid passport” is defined to mean:

- An unexpired passport or passport card issued by the U.S. government; or
- An unexpired passport issued by the government of another country with:
 - A stamp or mark affixed by the Federal Government onto the passport to evidence and authorize lawful presence in the United States; or
 - An unexpired I-94, or current permanent resident card, or unexpired immigrant visa, issued by the Federal Government.

The bill amends s. 322.02, F.S., to provide legislative intent that the state meet all minimum security standards of the federal REAL ID Act for the issuance of driver licenses and identification cards.

The bill amends s. 322.033, F.S., to reiterate that the state must meet all minimum security standards of the federal REAL ID Act for driver licenses and identification cards and prohibits the Department of Highway Safety and Motor Vehicles from issuing a driver license or identification card to any person who is an unauthorized alien or undocumented immigrant.

The bill amends s. 322.08, F.S., to stipulate that, for purposes of proof of identity, a driver license record or identification card record from another jurisdiction must comply with the federal REAL ID Act.

The bill also requires a person who becomes a U.S. citizen to obtain a replacement driver license within 30 days of becoming a citizen. The bill amends s. 322.19, F.S., to provide that a person who becomes a citizen of the United States after applying for or receiving a driver license must obtain a replacement license or card that reflects such change within 30 calendar days after making the change. The bill makes a corresponding amendment to s. 322.121, F.S., related to “safe driver” designations on licenses. The bill also updates the time period referenced in that statute from 10 days to 30 days to align with s. 322.19, F.S., which was updated in 2016.¹²⁸

Out-of-State Fee Waivers (Section 25)

The bill amends s. 1009.26, F.S., effective July 1, 2025, to specify that a student must be a citizen of the United States or lawfully present in the United States, in addition to the other conditions, in order to qualify for the out-of-state fee waiver at a Florida public postsecondary institution. Fewer students would therefore be eligible for the waiver, but the exact number of students is unknown.

¹²⁸ Section 60, ch. 2016-239, Laws of Fla.

In addition to new applications for fee waivers that must be evaluated based on the additional criteria in the bill, the bill also requires postsecondary institutions to, beginning July 1, 2025, reevaluate any student who is currently receiving the fee waiver to determine continued eligibility.

Appropriations

The bill appropriates funds to the State Board of Immigration Enforcement within the FDLE for the 2024-2025 fiscal year. The bill appropriates \$680,046 in recurring funds and \$26,781 in nonrecurring funds from the General Revenue Fund and 5 full-time equivalent positions (FTE) with associated salary rate of 325,928 to implement the bill. The bill appropriates \$250 million in nonrecurring funds from the General Revenue Fund for the Local Law Enforcement Immigration Grant Program.

The bill appropriates the sums of \$12,553,547 in recurring funds and \$35,570,178 in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services (DACS) for the 2024-2025 fiscal year to enhance interdiction activities and protect the borders of this state. Additionally, the bill authorizes the DACS to establish 84 FTE with associated salary rate of 5,064,250 to expand law enforcement coverage of interdiction stations and improve border security.

Except as otherwise provided by this act, this act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Equal Protection

The crimes created in the bill and the mandatory sentencing scheme may be subject to future challenges. The crimes and sentencing scheme presented in this bill only apply to unauthorized aliens.

The Fourteenth Amendment to the U.S. Constitution is not confined to the protection of citizens. It says: ‘[n]or shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.’¹²⁹ Because immigration status is not a protected class, it is likely that equal protection challenges to the statutes in the bill will be subject to the lower, rational basis standard. The Court has used a rational basis standard for determining that a state did not establish a sufficient rational basis for denying undocumented children access to public education that the state afforded other residents.¹³⁰

Federal Preemption

The bill may be subject to challenges for encroaching upon federal law. The Court has found that Federal Government’s broad, undoubted power over immigration and alien status rests, in part on its constitutional power to “establish an uniform Rule of Naturalization,” and on its inherent sovereign power to control and conduct foreign relations.¹³¹ Additionally, the Supremacy clause gives Congress the power to preempt state law, either by an express or inferred preemption. State laws are also preempted when they conflict with federal law.¹³² The Court has stated that although “federal law permits state officers to ‘cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States,’ this does not encompass the unilateral decision to detain.”¹³³

Right Pretrial Release

Article I, s. 14 of the Florida Constitution states that “[u]nless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions.

The bill provides that some unauthorized aliens are not entitled to pretrial release. The bill provides a rebuttable presumption that an unauthorized alien is a flight risk, and this may be subject to challenges. However, the bill shifts the burden from the state onto the defendant at a first appearance hearing, not at trial. Generally, rebuttable presumptions in a criminal case that shift the state’s burden to prove an element beyond a reasonable doubt have been found unconstitutional.¹³⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹²⁹ See *Plyer v. Doe*, 457 United States 202 (1982); *Wong Wing v. United States*, 163 United States 228 (1896).

¹³⁰ *Plyer v. Doe*, 457 United States 202 (1982).

¹³¹ *Arizona v. United States*, 567 United States 387 (2012).

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Tatum v. State*, 857 So.2d 331, 336-337 (Fla. 2d DCA 2003).

B. Private Sector Impact:

None.

C. Government Sector Impact:**State Board of Immigration Enforcement**

For the 2024-2025 fiscal year, the bill appropriates the sums of \$680,046 in recurring funds and \$250,026,781 in nonrecurring funds from the General Revenue Fund to the board.

The recurring general revenue funds of \$680,046 must be allocated to the board in the following appropriation categories:

- \$478,235 in Salaries and Benefits;
- \$30,053 in Expenses;
- \$150,000 in Contracted Services;
- \$10,000 in Operating Capital Outlay;
- \$10,000 in Lease/Purchase of Equipment; and
- \$1,758 in Transfer to the Department of Management Services/Statewide Human Resources Contract.

From the nonrecurring general revenue funds, \$26,781 is allocated to the board in the Expenses appropriation category.

The board is authorized to establish 5 FTE with associated salary rate of 325,928 as follows: one executive director, one senior management analyst, two governmental analysts, and one administrative assistant.

Additionally, from the nonrecurring general revenue funds, \$250 million is allocated to the Local Law Enforcement Immigration Grant Program. The unexpended balance of funds remaining on June 30, 2025, shall revert and is appropriated to the board for the 2025-2026 fiscal year for the same purpose.

Department of Agriculture and Consumer Services

For the 2024-2025 fiscal year, the bill appropriates the sums of \$12,553,547 in recurring funds and \$35,570,178 in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services to enhance interdiction activities and protect the borders of this state.

The Agricultural Law Enforcement budget entity is authorized to establish 84 FTE with associated salary rate of 5,064,250, including 57 law enforcement positions and 21 investigators, and from the:

- Recurring funds, \$12,553,547 is appropriated in the following appropriation categories:
 - \$8,574,036 in Salaries and Benefits;

- \$3,449,999 in Expenses;
- \$500,000 in Contracted Services; and
- \$29,512 in Transfer to the Department of Management Services/Statewide Human Resources Contract.
- Nonrecurring funds, \$35,570,178 is appropriated in the following appropriation categories:
 - \$327,754 in Operating Capital Outlay;
 - \$25,000,000 in Fixed Capital Outlay-Facilities Construction and Major Renovations;
 - \$10,029,160 in Acquisition of Motor Vehicles; and
 - \$213,264 in Acquisition of Boats, Motors, and Trailers.

Any unexpended balances of nonrecurring funds appropriated to the Department of Agriculture and Consumer Services that remain as of June 30, 2025, shall revert and are appropriated to the department for the 2025-2026 fiscal year for the same purpose.

Out-of-State Fee Waivers

The bill has an indeterminate, likely significant, revenue impact on state colleges and universities relating to the requirement that out-of-state fee waivers be granted only to students who are citizens of the United States or lawfully present in the United States. The fiscal impact is indeterminate because it is difficult to identify the number of students who would be affected by the changes outlined in the bill. In addition, the revenue impact will also depend on the behavior of affected students. While the cumulative amount of the fee waivers was more than \$40 million in FY 2023-2024, it is not clear that institutions will receive that revenue with the changes to the fee waiver. Some students who are undocumented for federal immigration purposes may choose to pay the out-of-state fee while others may choose to withdraw from school. Therefore, institutions may experience an increase in fee revenue as students pay the out-of-state fees, or experience declines in fee revenue as those students decide to withdraw from school and are not replaced by other students.

Department of Corrections

The DOC may have a positive indeterminate impact on prison beds (unquantifiable increase in prison beds) due to the creation of new crimes and the increase in penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.001, 320.01, 322.02, 322.033, 322.08, 322.121, 322.19, 775.0824, 775.0848, 874.03, 895.02, 903.046, 907.041, 908.102, 908.104, 908.105, 908.107, 908.11, 921.0022, and 1009.26.

This bill creates the following sections of the Florida Statutes: 104.155, 775.0824, 908.1031, 908.1032, 908.1033, and 908.13.

This bill creates eight undesignated sections of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 4-C

INTRODUCER: Senator Gruters

SUBJECT: Immigration

DATE: February 11, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stokes	Sadberry	AP	Favorable

I. Summary:

SB 4-C directs the division of law to create ch. 811, F.S., to be entitled “Unauthorized Aliens, Nationality, and Immigration.” The bill creates the *crimes of illegal entry and illegal reentry* within this chapter. Each of these crimes exist in federal law, and some states, such as Texas, have passed similar legislation.

Unauthorized Aliens, Nationality, and Immigration

Crimes of Illegal Entry and Reentry

The bill creates s. 811.102, F.S., to create the crime of illegal entry by an adult unauthorized alien into this state. An adult unauthorized alien who knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers commits a first degree misdemeanor. A person convicted of this offense must be sentenced to a mandatory minimum term of imprisonment of 9 months.

- A second violation is a third degree felony and requires a mandatory minimum term of imprisonment of one year and one day.
- A third or subsequent violation is a third degree felony and requires a mandatory minimum term of imprisonment of two years.

The bill provides for an affirmative defense, and that any person may not be arrested for this offense if he or she encountered law enforcement during the investigation of another crime that occurred in this state and the person witnessed or reported such crime or was a victim of such crime.

The bill creates s. 811.103, F.S., to create the crime of illegal reentry of an adult unauthorized alien. An adult unauthorized alien commits a third degree felony if he or she, after having been denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state. A person who is convicted of this crime must be

sentenced to a mandatory minimum term of imprisonment of one year and one day. The bill provides exceptions to this crime. An unauthorized alien who:

- Has three or more prior misdemeanor or felony convictions, other than a forcible felony, or an aggravated felony, and who commits the crime of illegal reentry, commits a third degree felony and must be sentenced to a mandatory minimum term of imprisonment of two years.
- Has a prior conviction for a forcible felony, or an aggravated felony and who commits the crime of illegal reentry commits a second degree felony and must be sentenced to a mandatory minimum term of imprisonment for five years.

The court must presume that no conditions of release can reasonably assure the presence of an unauthorized alien who is arrested for illegal reentry, and such person must be detained pending the disposition of his or her case.

Additionally, the bill provides that a person arrested for illegal entry or illegal reentry is not eligible for civil citation or various diversion programs, and requires law enforcement agencies to report such arrest to the federal government.

Death Penalty

The bill creates s. 921.1426, F.S., to provide that the court must sentence a defendant who is an unauthorized alien and who is convicted or adjudicated guilty of a capital felony to a sentence of death.

The bill may have a positive indeterminate impact on the Department of Corrections (DOC), and may have a negative fiscal impact on the State Courts. *See Section V. Fiscal Impact Statement.*

The bill is effective upon becoming law.

II. Present Situation:

Immigration Enforcement Encounters

Over the last four federal fiscal years (FFY),¹ the U.S. Border Patrol and Office of Field Operations has recorded close to 11.5 million enforcement encounters as described in the table below.² These actions refer to those involving individuals “encountered at ports of entry who are seeking lawful admission into the United States but are determined to be inadmissible, individuals presenting themselves to seek humanitarian protection under our laws, and individuals who withdraw an application for admission and return to their countries of origin within a short timeframe.”³ The total also includes encounters that led to apprehensions or expulsions; apprehensions refer to individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.⁴

¹ U.S. Immigration and Customs Enforcement, Department of Homeland Security, Enforcement and Removal Operations, Mission, available at <https://www.ice.gov/about-ice/ero> (last visited January 23, 2025). The federal fiscal year is October 1 to September 30 of the next calendar year.

² U.S. Customs and Border Protection, Department of Homeland Security, *Total CBP Enforcement Actions*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited January 23, 2025).

³ *Id.* at note 1.

⁴ *Id.* at notes 1 and 2.

Enforcement	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Total Enforcement Encounters	646,822	1,956,519	2,766,582	3,201,144	2,901,142

In addition to the approximately 11.5 million enforcement encounters, the U.S. Customs and Border Protection has recorded roughly 2 million known “gotaways” since the beginning of FFY 2021, but the actual number of gotaways may be 20 percent greater.⁵ Gotaways are individuals who have evaded detection and attempts at verifying their identities or backgrounds.

Immigration Enforcement by States

On June 30, 2023, Florida prisons housed 4,682 confirmed alien inmates. This is 127 more than the previous year, which totaled 4,555 alien inmates. Approximately 79.2% of confirmed alien inmates are in prison for violent crimes, followed by 9.0% for property crimes, 7.5% for drug crimes, and 4.4% for other crimes.⁶

According to U.S. Customs and Border Protection the term “criminal noncitizens” refers to individuals who have been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol. In 2024, there were 17,048 arrests of criminal noncitizens, almost 1,800 more arrests than the previous year. Of those arrests, 10,935 are for illegal re-entry after prior deportation.⁷

The Office of Homeland Security Statistics reported in 2022 that Florida had the third highest number of lawful permanent residents per million residents in the country, just behind New Jersey and New York.⁸

Texas Model

In a 2023 special session, Texas lawmakers passed SB 4 pertaining to illegal immigration. The bill created a Class B misdemeanor for a person who is an alien and enters or attempts to enter the state directly from a foreign nation anywhere other than a lawful port of entry and authorizes law enforcement to arrest such persons. Upon conviction, a judge must issue an order requiring the person to return to the foreign nation from which he or she entered or attempted to enter. The bill reclassifies the offense to a felony if it is shown the defendant has previously been convicted of such an offense. The bill also created a Class A misdemeanor for illegal reentry and

⁵ Homeland Security Committee Republicans, U.S. House of Representatives, *Border Crisis Startling Stats: Fiscal Year 2024 Ends With Nearly 3 Million Inadmissible Encounters Bringing Total Encounters to 10.8 Million Since FY2021*, (September 2024), available at <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>. (last visited January 26, 2025).

⁶ Florida Department of Corrections, *2022-2023 Annual Report* (page 35), available at, https://fdc-media.ccplatform.net/content/download/3089/file/Annual_Report_22-23_V10.pdf (last visited February 3, 2025).

⁷ U.S. Customs and Border Protection, *Criminal Noncitizen Statistics*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics> (last visited February 3, 2025).

⁸ Office of Homeland Security Statistics, *State Immigration Statistics*, available at <https://ohss.dhs.gov/topics/immigration/state-immigration-data/state-immigration-statistics> (last visited February 3, 2025).

reclassified that crime to a felony upon certain circumstances. Additionally, the bill provided discretion in certain cases and civil immunity for state workers and law enforcement.⁹

The legislation was to go into effect March 2024, but legal challenges from the U.S. Justice Department and immigration advocacy organizations have prevented the law from going into effect, claiming the law encroaches on the federal government's sole authority over immigration.¹⁰

On February 29, 2024, the U.S. District Court for the Western District of Texas granted a motion for preliminary injunction to block the bill from going into effect while litigation is pending. The State of Texas appealed this decision.¹¹ On March 19, 2024, the U.S. Supreme Court issued an order allowing the state of Texas to enforce the legislation as challenges proceeded in the appeals court. Hours later, the Fifth Circuit Court of Appeals scheduled a hearing for oral arguments on the administrative stay and reinstated the district court's injunction, stopping the legislation from going into effect.¹²

As of January 31, 2025, the case will go to trial July 8, 2025.¹³

The Death Penalty

Under current Florida law, the term “capital felony” means a crime for which a person may be sentenced to death.¹⁴ Among these crimes are:

- The unlawful killing of a human being:
 - When perpetrated from a premeditated design to effect the death of the person killed or any human being;¹⁵
 - When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any specified offense;¹⁶ or
 - Which resulted from the unlawful distribution by a person 18 years of age or older of any specified substances, or mixture containing any specified substance, when such substance or mixture is proven to have caused, or is proven to have been a substantial factor in producing, the death of the user.
- Sexual battery, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age.¹⁷

⁹ LegiScan, State of Texas, *SB 4 enrolled*, available at <https://legiscan.com/TX/text/SB4/id/2851390/Texas-2023-SB4-Enrolled.html> (last visited February 7, 2025).

¹⁰ The Texas Tribune, *Texas Immigration Law: Here's What to Know About SB 4*, March 18, 2024, available at <https://www.texastribune.org/2024/03/18/texas-sb-4-immigration-arrest-law/> (last visited February 7, 2025).

¹¹ ACLU Texas, *Federal Court Blocks Extreme Texas Legislation That Would Overstep Federal Immigration Law*, February 29, 2024, available at <https://www.aclutx.org/en/press-releases/federal-court-blocks-extreme-texas-legislation-sb-4-would-overstep-federal> (last visited February 7, 2025).

¹² The Texas Tribune, *Texas' New Immigration Law is Blocked Again*, March 19, 2024, available at <https://www.texastribune.org/2024/03/19/texas-sb-4-illegal-immigration/> (last visited February 7, 2025).

¹³ Austin American-Statesman, *Challenge to Texas Immigration Law Will Head to Trial in July, Federal Judge orders*, January 31, 2025, available at <https://www.statesman.com/story/news/politics/2025/01/31/texas-immigration-deportation-law-sb4-heads-to-july-trial/78060545007/> (last visited February 7, 2025).

¹⁴ See Sections 921.141, 921.142, and 921.1425, F.S.

¹⁵ Section 782.04(1)(a)1., F.S.

¹⁶ Section 782.04(1)(a)2., F.S.

¹⁷ Section 794.011(2), F.S.

- Trafficking in specified controlled substances.¹⁸

While the above listed crimes are all capital offenses, the U.S. Supreme Court has held that capital punishment must ‘be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution.’¹⁹

Under Florida capital crime sentencing statutes, the jury and the judge both play a role.²⁰ In a jury trial, if the defendant is found guilty of a capital crime by a unanimous jury vote, the court must conduct a separate sentencing proceeding to determine whether the defendant must be sentenced to death or life imprisonment.²¹

In the sentencing proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any specified aggravating factors or mitigating circumstances. Aggravating factors include, in part:

- The defendant was previously convicted of a capital felony or a felony involving the use or threat of violence.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was particularly heinous, atrocious, or cruel.
- The victim was a law enforcement officer in the performance of his or her duties.²²

Mitigating circumstances include, in part:

- The defendant has no significant history of prior criminal history.
- The defendant acted under extreme duress.
- The age of the defendant.
- The capacity of the defendant to appreciate his or her conduct.
- The capital felony was committed while the defendant was under extreme mental or emotional disturbance.²³

The state and the defendant, or the defendant's counsel, must be permitted to present argument for or against the sentence of death.²⁴

A unanimous jury must determine whether the state has proven at least one aggravating factor beyond a reasonable doubt.²⁵ If an aggravating factor is unanimously found to exist, the defendant is eligible for the death penalty and the jury must make a sentencing recommendation to the judge.²⁶

¹⁸ See s. 893.135, F.S.

¹⁹ *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

²⁰ Section 921.141, F.S.

²¹ Section 921.141(1), F.S.

²² Section 921.141(6), F.S.

²³ Section 921.141(7), F.S.

²⁴ Section 921.141(1), F.S.

²⁵ Section 921.141(2), F.S.

²⁶ Section 921.141(2)(b)2., F.S.

Such recommendation must be based on weighing:²⁷

- Whether sufficient aggravating factors exist;
- Whether aggravating factors exist which outweigh the mitigating circumstances found to exist; and,
- Based on those considerations, determine whether the defendant should be sentenced to death or life imprisonment without parole.²⁸

If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of death.²⁹

However, if at least eight jurors recommend a sentence of death, the judge, after considering each aggravating factor found unanimously by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death.³⁰ If the court imposes a sentence of life after the jury has recommended a sentence of death, the court must enter a written order including the reasons for not accepting the jury's recommended sentence.³¹

If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of life imprisonment without the possibility of parole, and the judge will impose that sentence.³²

In each case in which the court imposes a sentence of life imprisonment without the possibility of parole or death, the court must enter a written order addressing the aggravating factors, mitigating circumstances, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances.³³

III. Effect of Proposed Changes:

Unauthorized Aliens, Nationality, and Immigration

The bill directs the division of law to create ch. 811, F.S., to be entitled "Unauthorized Aliens, Nationality, and Immigration." The bill creates the *crimes of illegal entry and illegal reentry* within this chapter.

²⁷ Section 921.141(2)(b), F.S.

²⁸ Section 921.141(2)(b), F.S.

²⁹ Section 921.141(2)(c), F.S.

³⁰ Section 921.141(3)(a)2., F.S.

³¹ Section 921.141(4), F.S.

³² Section 921.141(2) and (3)(a)1., F.S.

³³ Section 921.141(4), F.S.

Crimes of Illegal Entry and Reentry

The bill creates s. 811.102, F.S., to create the crime of illegal entry by an adult unauthorized alien³⁴ into this state. An adult unauthorized alien who knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers commits a first degree misdemeanor.³⁵ A person convicted of this offense must be sentenced to a mandatory minimum term of imprisonment of 9 months.

- A second violation is a third degree felony³⁶ and requires a mandatory minimum term of imprisonment of one year and one day.
- A third or subsequent violation is a third degree felony and requires a mandatory minimum term of imprisonment of two years.

The bill provides it is an affirmative defense to the newly created crime if:

- The Federal Government has granted the unauthorized alien lawful presence in the United States or discretionary relief that authorizes the unauthorized alien to remain in the United States temporarily or permanently;
- The unauthorized alien is subject to relief under the Cuban Adjustment Act of 1966;³⁷ or
- The unauthorized alien's entry into the United States did not constitute a violation of 8 U.S.C. s. 1325(a).³⁸

Additionally, a person may not be arrested for this offense if he or she encountered law enforcement during the investigation of another crime that occurred in this state and the person witnessed or reported such crime or was a victim of such crime.

The bill creates s. 811.103, F.S., to create the crime of illegal reentry of an adult unauthorized alien. An adult unauthorized alien commits a third degree felony if he or she, after having been denied admission, excluded, deported, or removed³⁹ or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state.

A person who is convicted of this crime must be sentenced to a mandatory minimum term of imprisonment of one year and one day. The bill provides an unauthorized alien does not commit

³⁴ Section 908.111, F.S., the term “unauthorized alien,” means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, [8 U.S.C. ss. 1101 et seq.](#) The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

³⁵ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

³⁶ A third degree felony is punishable by up to 5 years' incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

³⁷ U.S. Citizen and Immigration Services, Green Card for Cuban Citizen, available at, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-a-cuban-native-or-citizen#:~:text=The%20Cuban%20Adjustment%20Act%20of%201966%20%28CAA%29%20allows,become%20lawful%20permanent%20residents%20%28get%20a%20Green%20Card%29>. (last visited February 9, 2025). The Cuban Adjustment Act of 1966 (CAA) allows Cuban natives or citizens living in the United States who meet certain eligibility requirements to apply to become lawful permanent residents (get a Green Card).

³⁸ 8 U.S.C s. 1325 relates to unlawful entry by an alien.

³⁹ The definition of “removal,” is provided in the bill and means the departure from the United States of an unauthorized alien after any proceeding under 8 U.S.C. ss. 1225, 1228, 1229, or 1229a or any agreement in which an unauthorized alien stipulates to his or her departure from the United States as part of a criminal proceeding under federal or state law.

a violation of this subsection if, before the unauthorized alien's reembarkation at a place outside the United States or his or her application for admission from a foreign contiguous territory:

- The Attorney General of the United States expressly consented to his or her reapplication for admission; or
- With respect to an unauthorized alien who was previously denied admission and removed, the unauthorized alien establishes that he or she was not required to obtain such advance consent under the Immigration and Nationality Act, as amended.

The penalties for this crime are increased if an unauthorized alien who:

- Has three or more prior misdemeanor or felony convictions, other than a forcible felony,⁴⁰ or an aggravated felony,⁴¹ and who commits the crime of illegal reentry, commits a third degree felony and must be sentenced to a mandatory minimum term of imprisonment of two years.
- Has a prior conviction for a forcible felony, or an aggravated felony and who commits the crime of illegal reentry commits a second degree felony and must be sentenced to a mandatory minimum term of imprisonment for five years.

The court must presume that no conditions of release can reasonably assure the presence of an unauthorized alien who is arrested for either crimes of illegal entry or illegal reentry, and such person must be detained pending the disposition of his or her case.

Additionally, the bill provides that a person arrested for illegal entry or illegal reentry is not eligible for civil citation or various diversion programs and requires law enforcement agencies to report such arrest to the federal government.

Section 811.101, F.S., is created to provide the definitions of the terms "removal" and "unauthorized alien."

Death Penalty

The bill creates s. 921.1426, F.S., to provide that the court must sentence a defendant who is an unauthorized alien and who is convicted or adjudicated guilty of a capital felony to a sentence of death.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴⁰ Section 776.08, F.S., provides that a forcible felony is treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

⁴¹ 8 U.S.C. s. 1101, provides the definition of aggravated felony.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The crimes created in the bill and the mandatory sentencing scheme may be subject to future challenges. The crimes and sentencing scheme presented in this bill only apply to unauthorized aliens.

Equal Protection

The Fourteenth Amendment to the U.S. Constitution is not confined to the protection of citizens. It says: '[n]or shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.'⁴² Because immigration status is not a protected class, it is likely that equal protection challenges to the statutes in the bill will be subject to the lower, rational basis standard. The U.S. Supreme Court (Court) has used a rational basis standard for determining that a state did not establish a sufficient rational basis for denying undocumented children access to public education that the state afforded other residents.⁴³

Due Process

The Court has long held that: "it must be concluded that all persons within the territory of the United States are entitled to the protection guaranteed by [the fifth and sixth] amendments, and that even aliens shall not be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law."⁴⁴

The bill creates a capital crime sentencing statute that differs from Florida's current law by imposing a mandatory death sentence without a capital sentencing procedure which only applies to unauthorized aliens. Although there was a time when states had "mandatory death sentence" laws, the Court has found such laws unconstitutional, stating "the history of mandatory death penalty statutes in the United States thus reveals that the

⁴² See *Plyer v. Doe*, 457 U.S. 202 (1982); *Wong Wing v. U.S.*, 163 U.S. 228 (1896).

⁴³ *Plyer v. Doe*, 457 U.S. 202 (1982).

⁴⁴ *Wong Wing v. U.S.*, 163 U.S. 228 (1896).

practice of sentencing to death all persons convicted of a particular offense has been rejected as unduly harsh and unworkably rigid.⁴⁵

Furthermore, the bill mandates the death penalty if an unauthorized alien is convicted of a capital offense. Under Florida law, a capital offense includes crimes such as trafficking in controlled substances, sexual battery upon a person less than 12, and crimes of homicide. It appears under the language in the bill that any unauthorized alien convicted of any capital offense must be sentenced to death. The Court has explained that capital punishment must ‘be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution.’⁴⁶

Federal Preemption

The new crimes created in the bill related to illegal entry or illegal reentry may be subject to challenges for encroaching upon federal law. The Court has found that the Federal Government’s broad, undoubted power over immigration and alien status rests, in part on its constitutional power to “establish an uniform Rule of Naturalization,” and on its inherent sovereign power to control and conduct foreign relations.⁴⁷ Additionally, the Supremacy clause gives Congress the power to preempt state law, either by an express or inferred preemption. State laws are also preempted when they conflict with federal law.⁴⁸ The Court has stated that although “federal law permits state officers to ‘cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States,’ this does not encompass the unilateral decision to detain.”⁴⁹

Eighth Amendment

The Eighth Amendment to the U.S. Constitution provides protections against cruel and unusual punishment. The Court has held that the Eighth Amendment stands to assure that the State’s power to punish is “exercised within the limits of civilized standards.”⁵⁰ The Court held that North Carolina’s mandatory death penalty statute for first degree murder departed “markedly from contemporary standards respecting the imposition of the punishment of death” and could not be applied consistently with the Eighth Amendment.⁵¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴⁵ *Woodson v. North Carolina*, 96 S.Ct. 2978 (1976)..

⁴⁶ *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

⁴⁷ *Arizona v. U.S.*, 567 U.S. 387 (2012).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Woodson v. North Carolina*, 96 S.Ct. 2978 (1976).

⁵¹ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate fiscal impact on the DOC due to the creation of new crimes and the increased beds that may be needed to house unauthorized aliens who commit the crimes created in the bill.

Additionally, the bill may have a negative fiscal impact on the state courts due to the potential increase in death sentences due to the mandatory death penalty for unauthorized aliens.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 811.101, 811.102, 811.103, and 921.1426.

This bill creates an undesignated section of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Commission /
Jeremy Hutcherson

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

Discuss pedestrian/bicycle striping on the multi-use path along Minutemen Causeway
Staff Representative: Jeremy Hutcherson, Commissioner
Recommendation: Approve installing e-bike pedestrian awareness stencil

IS THIS ITEM BUDGETED (IF APPLICABLE)?

na

BACKGROUND:

Item approved 5-0 @ 16 Jan Commission (minutes attached), w/ action for legal opinion, Legal opinion indicated minor stencil design update could mitigate liability, Updated e-bike stencil (attached), Installation details included with Atlantic Paving Services quote (attached)

COCOA BEACH CITY COMMISSION

AGENDA ITEM REQUEST FORM

Please mail completed form to:

City Manager's Office
City of Cocoa Beach
P.O. Box 322430
Cocoa Beach, Florida 32932-22430

DATE: _____

NAME: _____

PHONE: _____

E-MAIL ADDRESS: _____

ADDRESS: _____

BUSINESS ADDRESS: _____

BUSINESS PHONE: _____

PLEASE COMPLETE THE FOLLOWING:

ITEMS(S) TO BE CONSIDERED: _____

PERTINENT FACTS CONCERNING ITEMS(S): _____

(PLEASE ATTACH APPLICABLE DOCUMENTS)

DESIRED ACTION BY COMMISSION: (USE REVERSE SIDE FOR ADDITIONAL SPACE)

Signed by: _____



INITIAL



UPDATED



2. Discuss pedestrian/bicycle striping on the multi-use path along Minutemen Causeway

Staff Representative: Wayne Carragino, City Manager

Total Cost: \$2,090.00

Recommendation: Discuss and provide a decision on whether or not to move forward

MOTION BY WILLIAMS/HUTCERSON

I MOVE TO DISCUSS

Mr. Rick Anderson, inquired about the width of the sidewalk and was concerned this would be a safety issue rather than helping.

Commissioner Jackson noted the concerns but would like to see this take affect and address the public safety issue.

Vice-Mayor Williams noted the sidewalk would be narrow lanes, and noted its more of a suggestive notion to the e-biker's to move to the side.

Mayor Capizzi requested to add a few signs such as bikes yield to pedestrians.

Commissioner Tumulty noted it was a good step to put in the line. He spoke about the sidewalk traffic on Minutemen.

Vice-Mayor Williams noted the education factor more than anything else. He noted that with the e-bikes it would be more on the parents. Mentioned the commission is unable to make a rule for everything.

Chief Wes Mullins, Police Chief, inquired as what the commission expectations are regarding enforcement.

Vice-Mayor Williams confirmed this would be voluntary.

Ms. Becky Vose, City Attorney, stated that enforcement would require an ordinance.

Vice-Mayor Williams asked about the potential for a lawsuit if someone were hit in the bike lane. Ms. Vose confirmed the possibility. He then asked if something should be documented to mitigate legal risks, and Ms. Vose agreed to research the matter.

MOTION BY WILLIAMS/HUTCHERSON

MOVE TO FUND THIS AND NOT EXECUTE UNTIL AFTER NEXT MEETING

VOICE VOTE ON THE MOTION CARRIED UNANIMOUSLY.

Atlantic Services Pavement Marking, Inc.

212 Eighth Ave.
Indialantic, FL
32903
atlanticpavementmarking@gmail.com
321 508 3505

Estimate

Estimate No: 435
Date: 12/18/2024

For: City of Cocoa Beach
scott.maxim@cityofcocoa.beach.com
Sidewalk along Minuteman Causeway
from La Riviere Rd to Public Works
Building
Cocoa Beach, FL

Description	Quantity	Rate	Amount
Layout and paint 22 sets of 3' tall bike stencils, 3' tall pedestrian stencils, 6" tall "SHARED PATH" messages, and 30' of 4" white divider lines (1 set at each driveway intersection, and crosswalk and 2 sets between the La Riviere Rd and eastern most school driveway .	1	\$2,090.00	\$2,090.00
Subtotal			\$2,090.00
Total			\$2,090.00
Total			\$2,090.00

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Manager /
Wayne Carragino, City Manager

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

ADOPT ORDINANCE 1695

AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, AMENDING CHAPTER 26.5, "VACATION RENTALS", OF THE CODE OF ORDINANCES OF THE CITY OF COCOA BEACH; PROVIDING THAT THE REGULATION OF VACATION RENTALS SHALL BE CITY-WIDE RATHER THAN JUST IN THE RS-1 ZONING DISTRICT; MAKING RELATED CHANGES IN THE CODE; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Staff Representative. Wayne Carragino, City Manager
Recommendation: Adopt on first reading

IS THIS ITEM BUDGETED (IF APPLICABLE)?

.....

BACKGROUND:

...

ORDINANCE NO. 1695

AN ORDINANCE OF THE CITY OF COCOA BEACH, FLORIDA, AMENDING CHAPTER 26.5, "VACATION RENTALS", OF THE CODE OF ORDINANCES OF THE CITY OF COCOA BEACH; PROVIDING THAT THE REGULATION OF VACATION RENTALS SHALL BE CITY-WIDE RATHER THAN JUST IN THE RS-1 ZONING DISTRICT; MAKING RELATED CHANGES IN THE CODE; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Cocoa Beach deems it appropriate to enforce vacation rental regulations city-wide rather than merely within the RS-1 Zoning district; and

WHEREAS, this ordinance is adopted in support of the health, safety and welfare of the residents and businesses of, and the visitors to, the City of Cocoa Beach.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY COCOA BEACH:

SECTION 1. Enactment. Chapter 26.5 of the City of Cocoa Beach Code of Ordinances is hereby amended to read as set forth in the attached Exhibit "A" with underlined text added, and ~~stricken~~ text deleted.

SECTION 2. Conflicts. All ordinances, resolutions, official determinations, or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this Ordinance are repealed to the extent inconsistent herewith.

SECTION 3. Codification. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Cocoa Beach.

SECTION 4. Severability. If any section, sentence, clause, or other provision of this Ordinance, shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding of invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance, which shall remain in full force and effect.

SECTION 6. Effective Date. This ordinance shall take effect upon adoption.

Adopted by the City Commission on this _____ day of _____, 2025.

CITY OF COCOA BEACH

Keith Capizzi, Mayor-Commissioner

ATTEST:

Karin Grooms, City Clerk

EXHIBIT "A"

Chapter 26.5 VACATION RENTALS

ARTICLE I. IN GENERAL

Sec. 26.5-1. Authority, scope and purpose.

This chapter is enacted under the home rule power of the City of Cocoa Beach in the interest of the health, peace, safety and general welfare.

F.S. § 509.013, provides a distinction between "transient public lodging establishments," which are rented, or advertised or held out for rental to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less; and "nontransient public lodging establishments," which are rented, or advertised or held out for rental to guests for periods of at least thirty (30) days or one (1) calendar month, whichever is less.

F.S. § 509.242(1)(c), further provides for a subset of transient public lodging establishments, called "vacation rental" which is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare project.

It is the intent of this chapter to regulate vacation rentals as defined by Florida Statutes, as well as other transient public lodging establishments which are located anywhere within the city limits ~~the RS-1 single-family residential zoning district~~ of the City of Cocoa Beach, which collectively are referred to herein as "vacation rentals".

In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending F.S. § 509.032 (7)(b) to provide that "[a] local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."

In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida), amending that same statute to read "[a] local law, ordinance, or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."

The official statement of legislative intent of Senate Bill 356 as reflected in the House of Representatives' Final Bill Analysis, dated June 19, 2014, states that the "Effect of the Bill" is as follows:

"The bill permits local governments to create regulation that distinguishes vacation rentals from other residential property. In the past, local government regulations have included noise, parking, registration, and signage requirements for vacation rentals.

"The bill does not allow local governments to create regulations that would prohibit vacation rentals or restrict the duration or frequency of vacation rentals. These types of regulation remain preempted to the state.

"The grandfather provision in existing law exempting any local law, ordinance, or regulation adopted on or before June 1, 2011, is maintained. Any local law, ordinance, or regulation passed before that date that prohibits or restricts vacation rentals based on the duration or frequency may continue to be enforced."

This Chapter does not prohibit Vacation Rentals, or the duration or frequency of Vacation Rentals, nor is it the intention of the City of Cocoa Beach to do so, but rather this Chapter is intended to address life safety and compatibility concerns in the interests of the health, peace, safety, and general welfare.

Sec. 26.5-2. Findings of facts.

Based on information presented at various city commission meetings by residents of Cocoa Beach and owners and operators of vacation rentals, the practical first-hand experience and observations of city commissioners, common sense deductions of city commissioners based on long term experiences in Cocoa Beach, information learned by city commissioners from various residents, information from the U.S. Census, as well as evidence and testimony presented at public hearings before the city commission, and on the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, the city commission finds:

- (1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.
- (2) In contrast, transient occupants of vacation rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the vacation rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.
- (3) Certain vacation rentals are presently located within the ~~city limits~~RS-1 single family residential zoning district of the City of Cocoa Beach.
- (4) Vacation rentals, left unregulated, can create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, extreme size and/or greater occupancy.
- (5) Vacation rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents.
- (6) Vacation rentals located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion.
- (7) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of vacation rentals.
- (8) People who live in homesteaded/long-term rental properties generally know their neighbors and if there is an issue regarding noise, neighbors can typically work things out with their neighbors without the involvement of the city. People who live in homesteaded properties or are long-term renters generally have limited parties and noisy get-togethers; whereas people who temporarily in a neighborhood are typically there on vacation and are much more likely to have parties and loud get-togethers and generally can be the source of much more noise. There is typically much more accountability between neighbors who are homesteaded or long-term renters, as opposed to people who are at a property for a short period of time.
- (9) According to the ~~2023~~2017 U.S. Census estimates, the City of Cocoa Beach has an average household size of 1.97 persons.
- (10) Vacation rentals situated ~~within the RS-1 single family residential zoning district neighborhoods~~city limits can and do create a great disparity in occupancy.

Sec. 26.5-3. Definitions.

The following terms as used in this chapter are defined as set forth hereinafter:

Bedroom means any room in a vacation rental which has a bed or other place for sleeping and a separate closet that is an integral part of the permanent construction within the bedroom or an ensuite bathroom, and complies with the Florida Fire Code and Florida Life Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, any main living area, or any exterior area or vessel. If a previously approved bedroom exists as of the effective date of this code, and does not have a separate closet that is an integral part of the permanent construction of the structure, but rather utilizes an armoire or other furniture piece for clothing storage, the requirement for a closet to qualify as a bedroom is waived. If there is more than one (1) living room, such additional living room can count as a bedroom as long as it has emergency egress as required for a bedroom.

Occupant means any person who occupies a vacation rental overnight. The term "occupant" includes the owner, agent, or other person staying overnight at the vacation rental whether or not they are paying for the rental, so long as at least one (1) person at the vacation rental is paying for the rental.

Owner occupied means the vacation rental is then occupied by person(s), at the vacation rental owner's consent, who do not pay rent for the occupancy of the vacation rental, when such persons are members of the family of the vacation rental owner, at a time when there are no person(s) occupying the vacation rental who are paying for such occupancy.

Transient public lodging establishments means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Vacation rental is collectively a vacation rental as defined under Florida Statutes, and any transient public lodging establishment which is located within the ~~RS-1 single family residential zoning district~~ city limits of the City of Cocoa Beach.

Vacation rental owner is the fee simple owner of the vacation rental, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the vacation rental owner is not an individual, each and every person who owns twenty (20) percent or more of the equitable interest in the vacation rental shall also be deemed a vacation rental owner. The duties and functions of a vacation rental owner may, at the option of the vacation rental owner, be performed by an agent of the vacation rental owner, so long as the vacation rental owner notifies the city in writing, on a form provided by the city, of the identity and contact information of such agent, and the specific duties that the agent will be performing for the vacation rental owner. The vacation rental owner may change the designation of agent at any time through the filing of a new form and the payment of an administrative fee in an amount as set by resolution by the city commission. The vacation rental owner shall be held responsible for all actions of such designated agent with respect to the applicable vacation rental.

Sec. 26.5-4. Enforcement.

Violations of this ordinance shall be enforced in accordance with the provisions of section 1-8 of this Code of Ordinances, and through fines in accordance with ordinances and resolutions adopted by the city commission and most currently revised.

Sec. 26.5-5. Appeals.

Any decision of the city manager or his or her authorized designee relating to this ordinance shall be rendered in writing in appealable form, and reviewed by the city special magistrate if a notice by the vacation rental owner or agent is filed with the city clerk within ten (10) days after the action to be reviewed. The city clerk shall place the matter on the agenda of the next available meeting of the special magistrate, but no later than thirty-five (35) days after the notice by the vacation rental owner or agent is filed, at which the matter will be reviewed. The decision of

the special magistrate shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

Sec. 26.5-6. Construction of chapter.

This chapter shall be liberally construed to accomplish its purpose of regulating vacation rentals, protecting the residential character of the ~~RS-1 single family residential zoning district~~ City of Cocoa Beach, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Cocoa Beach's residents of their residential property.

Sec. 26.5-7. Severability.

In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this chapter, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this chapter shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this chapter, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this chapter, which shall remain in full force and effect. This chapter shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this chapter as expressed herein.

Secs. 26.5-~~98~~—26.5-20. Reserved.

ARTICLE II. VACATION RENTAL REGISTRATION

Sec. 26.5-21. Registration required.

Every vacation rental owner, either personally or through an agent, shall register with the City of Cocoa Beach utilizing forms promulgated by the city and/or the city's third-party vendor responsible for such registrations. A separate registration shall be required for each vacation rental. The operation of a vacation rental without registration after the date registration is required shall be a violation of this ordinance, except in the instance of providing accommodations to fulfil a pre-existing contract as provided hereinafter. Every day of such operation without registration shall constitute a separate violation.

Sec. 26.5-22. Vacation rental registration.

- (a) A vacation rental owner or agent, as applicable, registering a vacation rental with the city shall register said vacation rental through the city's third-party vendor, utilizing the online process stipulated by said vendor.
- (b) A registration form shall include the following submittals:
 - (1) A completed vacation rental registration form.
 - (2) Payment of applicable fee.
 - (3) A copy of the vacation rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation, if the registrant has such license.
 - (4) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any

other taxes required by law to be remitted to the Florida Department of Revenue, if the registrant has such certificate of registration.

- (5) Evidence of the vacation rental's current and active account with the Brevard County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Brevard County Tax Collector, if the registrant has such account.
 - (6) Exterior site sketch. An exterior sketch of the vacation rental facility shall be provided. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the vacation rental owner, such sketch may be hand drawn, and need not be professionally prepared.
 - (7) Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, as applicable. At the option of the vacation rental owner, such sketch may be hand drawn, and need not be professionally prepared.
 - (8) Identity of non-paying occupants and vehicles. A statement as to the names of any non-paying occupants who will occupy the vacation rental overnight when there will be one (1) or more paying occupants at the vacation rental, such as vacation rental owner(s) and family, as well as the number of vehicles to be present as a result of the presence of the non-paying occupants.
- (c) If a registration form is incomplete, the registrant will be notified of the deficiency.

Sec. 26.5-23. Modification of vacation rental registration.

An amendment of a vacation rental registration shall be required in the event that any of the following changes to the vacation rental are proposed:

- (1) An increase or decrease in the number of bedrooms in the vacation rental.
- (2) An increase in the maximum occupancy of the vacation rental.
- (3) An increase or decrease in the number of parking spaces, or a change in the location of parking spaces for the vacation rental.
- (4) A change in ownership of the vacation rental.
- (5) A change in the identity or vehicle(s) of non-paying occupant(s).

Modification of a vacation rental registration may be subject to additional fees as stipulated in the most recently revised version of the city's master fee listing.

Sec. 26.5-24. Duration of vacation rental registration.

A vacation rental registration shall be based upon and valid for one (1) calendar year after the date of registration.

Sec. 26.5-25. Renewal of vacation rental registration.

A vacation rental owner must renew its registration annually on or before January 1 of each year~~prior to the expiration date of the previous vacation rental registration.~~

Sec. 26.5-26. Inspection of vacation rentals.

- (a) Inspection of a vacation rental to verify compliance with the Florida Building Code, and the Florida Fire and Life Safety Codes, which governed at the time of completion of the subject construction, shall be required subsequent to the initial registration of the vacation rental, and annually after each renewal. If instances of noncompliance are found, all such instances of noncompliance shall be handled as other violations of the

Florida Building Code and Florida Fire and Life Safety Codes are otherwise handled in the city. These requirements will not be imposed so as to affect contracts that pre-exist the effective date of this ordinance ~~(October 1, 2018)~~.

- (b) Annual inspections shall be made by the city through appointment with the vacation rental owner or agent, as applicable. If a city inspector has made an appointment with vacation rental owner or agent, as applicable, for an inspection, and the city inspector is unable to complete the inspection as a result of an action or inaction of the vacation rental owner or agent, or an occupant of the vacation rental, the vacation rental owner shall be charged a "re-inspection" fee in an amount set by resolution of the city commission to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection. In addition, failure of a vacation rental owner or agent, as applicable, to make the vacation rental available for an inspection within twenty (20) days after notification by the city in writing that the city is ready to conduct the annual inspection, shall be a violation of this chapter punishable by a fine as set by resolution by the city commission. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation.

Sec. 26.5-27. Transfer of vacation rental registration.

Vacation rental registrations are transferable only when the ownership of the vacation rental is sold or otherwise transferred, and the new owner has filed a modification of the registration with the city within thirty (30) days from the date of the sale or transfer. Failing such modification of the registration, any outstanding vacation rental registration as to that vacation rental shall be null and void on the thirty-first day after such sale or transfer.

A change in ownership of the vacation rental will be subject to a new registration fee as stipulated in the most recently revised master fee listing.

Sec. 26.5-28. Vested rights/waiver/estoppel.

A vacation rental registration shall not be construed to establish any vested rights or entitle the registered vacation rental to any rights under the theory of estoppel. A vacation rental registration shall not be construed as a waiver of any other requirements contained within the City of Cocoa Beach City Code or Comprehensive Plan, and is not an approval of any other code requirement outside this chapter. The registration of a vacation rental is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Cocoa Beach City Code or Comprehensive Plan.

Secs. 26.5-29—26.5-42. Reserved.

Sec. 26.5-43. Duties of vacation rental owner.

Every vacation rental owner or agent, as applicable, shall be available by landline or mobile telephone answered by the vacation rental owner or agent at the listed phone number twenty-four (24) hours a day, seven (7) days a week to respond to police, fire or other emergency personnel requests. Otherwise, response to contact by the city's regulatory personnel shall be required only Monday through Saturday, 9:00 a.m. to 6:00 p.m. Failure of the vacation rental owner or agent, as applicable, to fulfil this duty, shall be a violation of this ordinance which shall be punished by fine as set by resolution of the city commission.

Secs. 26.5-44—26.5-50. Reserved.

ARTICLE III. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 26.5-51. Generally.

The standards and requirements set forth in this article shall apply to the rental, use, and occupancy of vacation rentals in the City of Cocoa Beach.

Sec. 26.5-52. Minimum safety and operational requirements.

Vacation rentals in the City of Cocoa Beach shall meet the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code, and each vacation rental shall have at least one (1) telephone with the ability to call 911.

Sec. 26.5-53. Maximum occupancy based on site capacity/limitations/grandfathering/previous rentals.

- (a) The maximum occupancy of a vacation rental shall be stated in the vacation rental registration form, and shall be limited to the lesser of:
 - (1) Two (2) occupants (as defined herein) per bedroom (as defined herein), plus two (2) occupants.
 - (2) A total of eight (8) occupants per vacation rental.
- (b) The maximum occupancy restriction as set forth above shall not apply when the property is owner occupied by the vacation rental owner.
- (c) Notwithstanding the above, a registered vacation rental, that is in a zoning district other than RS-1 of the city, that was used as a vacation rental as of the effective date of the amendment~~original adoption~~ of this ordinance, (April ~~March 5~~, 2025~~9~~), may apply for grandfathered status to last for a period of ten (10) years, as to occupancy limitations, and may set its maximum occupancy based upon the following criteria and procedures. Vacation rentals that have an occupancy of eight (8) or less as determined according to section 26.5-53 above will not require grandfathering to maintain that occupancy.
 - (1) A grandfathered vacation rental shall have its maximum occupancy based upon two (2) occupants (as defined herein) per bedroom (as defined herein), plus two (2) occupants, unless through a previously existing arrangement with the city the occupancy had been capped at a lower number of occupants as of the time of application for grandfather status. A change in the number of bedrooms at the vacation rental shall cause such vacation rental to lose its grandfathered status.
 - (2) The vacation rental owner, or agent, as applicable, ("grandfathering applicant"), shall complete a grandfathering application as prescribed by the city, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of the number of bedrooms as herein defined in the vacation rental.
 - (3) The grandfathering application and supporting proof shall be submitted to the city, if at all, by no later than June 5, 2025~~9~~, for review by city staff, and such staff shall make a written determination as to the maximum occupancy of such grandfathered vacation rental.
 - (4) If the city staff fails to confirm the requested occupancy level, the city shall notify the grandfathering applicant of that fact, and the occupancy level that can be approved, in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the grandfathering applicant before the city's special magistrate to provide the grandfathering applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the special magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the city staff upon initial review.

- (5) If a vacation rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such vacation rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.
 - (6) If it is reasonably determined by the city staff that any information supplied to the city in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the city commission by resolution. If there is such a determination by city staff, the city shall notify the grandfathering applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the grandfathering applicant before the special magistrate to provide the grandfathering applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the special magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the initial determination by the city staff shall be final.
 - (7) If a vacation rental registration does not exist as to a vacation rental for a period in excess of thirteen (13) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that vacation rental.
- (d) Notwithstanding any other provision of this section, rental agreements with prospective occupants for vacation rentals in the RS-1 zoned area of the city that were entered into before the original enactment of this chapter (March 5, 2020) shall be exempt from the provisions of this chapter as more fully set forth in section 26.5-64. Notwithstanding any other provision of this section, rental agreements with prospective occupants for vacation rentals in all zoning districts of the city other than the RS-1 zoned area of the city that were entered into before the amendment of this chapter (April , 2025) shall be exempt from the provisions of this chapter as more fully set forth in section 26.5-64. Notwithstanding any other provision of this section, rental agreements with prospective occupants for vacation rentals that were in compliance with the city's chapter 26.5 as of the date of entering into such rental agreement, (hereinafter "pre-occupancy cap agreements"), are exempt from the restrictions on occupancy enacted in this ordinance. If a vacation rental is cited for a violation of the occupancy cap of eight (8) occupants as provided in this section, (that would not be a violation if it were not for this occupancy cap of eight (8) occupants), when the vacation rental is occupied under the terms of a pre-occupancy cap agreement, the vacation rental owner may defend such violation based on the fact that the vacation rental was exempt from the occupancy cap of eight (8) occupants due to it being occupied pursuant to a pre-occupancy cap agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the vacation rental owner or otherwise determined by the fact finder:
- (1) Copy of deposit or payment information evidencing that the agreement was a pre-occupancy cap agreement.
 - (2) Copy of e-mail or other communication evidencing a binding pre-occupancy cap agreement.
 - (3) Information from the occupant confirming that there was a binding agreement in a time-frame to make the agreement as a pre-occupancy cap agreement under this section.
- If it is reasonably determined by the city staff, and confirmed by the city's special magistrate that any information supplied to the city in support of an application for exemption, or in support of a defense based upon pre-occupancy cap agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the city commission by resolution.

Sec. 26.5-54. Vacation rental agreements—minimum provisions.

Vacation rentals shall be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

- (1) Maximum occupancy of the vacation rental that is consistent with the vacation rental registration.

- (2) The maximum number of vehicles that will be allowed to park at the vacation rental. Such number of vehicles shall not exceed the number of parking spaces located at the vacation rental as shown in the sketch submitted with the vacation rental registration, plus any other legal parking spaces that the vacation rental owner can show are available to the vacation rental.
- (3) A statement that a sketch of the permitted off-street parking locations where occupants may park according to the vacation rental registration sketch and any other legal parking spaces available to the vacation rental will be posted at the vacation rental.
- (4) A statement that all occupants must promptly evacuate from the vacation rental upon posting of any evacuation order issued by state or local authorities.
- (5) A copy of a document to be supplied by the city which includes excerpts from City of Cocoa Beach ordinance provisions of general application relevant to vacation rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, and City of Cocoa Beach Noise Ordinance, as specified by resolution of the city, as a lease addendum. The city will make available to vacation rental owners and agents a copy of such document in digital format upon request, and the city will post such document on its website.

Sec. 26.5-55. Parking regulations; penalties.

No parking shall cross or block any sidewalk, and no parking shall be permitted on any grassed area, dirt or sand area, or any area covered by stones or shell unless such area is part of an approved parking plan. No vacation rental parking shall be on any lot or parcel other than on the specifically registered vacation rental property or associated property. The maximum collective number of automobiles, trucks, boats, motorcycles, and trailers shall be limited to a total of four (4) to be used for any vacation rental. Any on-street parking shall not interfere with convenient vehicle access to and through the neighborhood and shall meet the requirements of sections 3-01 and 3-03 of the city's land development code. Violations of this section may be punished through city parking citations in accordance with section 26-30 of this code of ordinances, and vehicles parked in violation of the approved parking plan or which otherwise interfere with convenient vehicle access to and through the neighborhood are subject to being towed at the vehicle owner's expense.

Sec. 26.5-56. Noise regulations; exceptions.

No person located in or on a vacation rental property at any time shall create, or cause to be created any noise or sound which is clearly audible within any other residence within the RS-1 single family residential district city limits of the City of Cocoa Beach when the residence in which the noise or sound is clearly audible has its windows and doors closed. This shall not include cries for emergency assistance or warning calls, properly functioning HVAC systems, pool pumps, lawn mowers, leaf blowers, or fire alarms or burglar alarms prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the vacation rental served by any such alarm to turn off the alarm. The provisions of this section are in addition to other noise regulations generally applicable in the city.

Sec. 26.5-57. Noise regulations; penalties.

- (a) Noise violations may be enforced utilizing any legal means, including, but not limited to, citations issued by code officers, police officers, or any other person designated by the city manager, arrest, actions before the special magistrate, or injunctive relief. Citations issued to renters shall be in amounts as set by resolution of the city commission.
- (b) If there are 3 noise violations with citations (whether such violations are paid, or if they are challenged and the special magistrate upholds such citation), issued over a rolling period of twelve (12) months, the special magistrate, at the request of the city, may deem the property a "noise nuisance property" to be effective for a period of twelve (12) months from the later of the special magistrate order deeming the property a "noise

nuisance property" or any citation for a noise violation as to such property, and may impose one (1) or more of the following orders:

- (1) Require that whenever in the twelve (12) months following the special magistrate order there is a change of occupancy of the property (i.e. new people staying in the noise nuisance property) the property manager must provide proof to the city that the property manager has visited the property during the first day of the stay of the new tenants (or as soon thereafter as is practicable) and delivered a copy of the city's noise ordinances to the new occupants of the property and explained the seriousness of the violations of such ordinance and the fines and penalties which are applicable. Failure to provide said notice shall constitute operating without registration and the vacation rental owner shall be subject to the applicable fine for operating without a registration.
- (2) Require that the owner of the noise nuisance property shall be required to impose for all future rentals of the noise nuisance property over the next twelve (12) months, an additional deposit (whether paid, or secured by a credit card) in an amount no less than five hundred dollars (\$500.00), with the condition of the deposit being that it will be forfeited to the city if the renter receives a noise violation during the term of the rental agreement. All such tenants shall be warned, by the owner or property manager, of such additional deposit and what would cause the forfeiture of such deposit prior to a rental agreement being finalized. A prominent notice of the conditions of such deposit and the potential forfeiture of such deposit shall be posted in each and every noise nuisance property. Failure to require the additional deposit shall constitute a violation of city regulations and the owner shall be subject to a penalty in the amount charged for operating without registration. Proof of the additional deposit must be provided to the city by the property manager for each and every rental of the property as long as the property is designated a noise nuisance property.

Secs. 26.5-58—26.5-62. Reserved.

Sec. 26.5-63. Required providing of vacation rental and local information—Posting.

- (a) In each vacation rental, there shall be provided, in a prominent location, the following written information:
 - (1) The name, address and phone number of the vacation rental owner or agent, as applicable.
 - (2) The maximum occupancy of the vacation rental.
 - (3) A copy of a document to be supplied by the city which includes excerpts from City of Cocoa Beach ordinance provisions of general application relevant to vacation rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, City of Cocoa Beach Noise Ordinance, notifications as to speed limits and driving information, and other relevant information, as specified by resolution of the City, as a lease addendum. The city will make available to vacation rental owners and agents a copy of such document in digital format upon request, and the city will post such document on its website.
 - (4) The maximum number of vehicles that can be parked at the vacation rental, along with a sketch of the location of the off-street parking spaces.
 - (5) The days and times of trash pickup.
 - (6) The location of the nearest hospital.
- (b) There shall be posted, next to the interior door of each bedroom a legible copy of a building evacuation map—Minimum eight and one-half (8½) inches by eleven (11) inches.

ARTICLE IV. EXEMPTIONS

Sec. 26.5-64. Exemption for pre-existing rental agreements.

Notwithstanding any other provision of this ordinance, rental agreements with prospective occupants for vacations rentals located within the RS-1 zoning district that were pre-existing as of the original enactment of chapter 26.5 (March 5, 2020), (hereinafter "pre-existing agreements") are exempt from the provisions of this ordinance. Notwithstanding any other provision of this ordinance, rental agreements with prospective occupants for vacations rentals located anywhere in the city other than within the RS-1 zoning district that were pre-existing as of this amendment of chapter 26.5 (April , 2025), (hereinafter also referred to as "pre-existing agreements") are exempt from the provisions of this ordinance.

If a vacation rental is cited for a violation of this chapter, (that would not be a violation if it were not for this chapter), when the vacation rental is occupied under the terms of a pre-existing agreement, the vacation rental owner may defend such violation based on the fact that the vacation rental was exempt from this chapter due to it being occupied pursuant to a pre-existing agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the vacation rental owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a pre-existing agreement.
2. Copy of e-mail or other communication evidencing a binding Pre-existing agreement.
3. Information from the occupant confirming that there was a binding agreement in a time-frame to make the agreement as pre-existing agreement under this chapter.

If it is reasonably determined by the city staff, and confirmed by the city's special magistrate that any information supplied to the City of Cocoa Beach in support of an application for exemption, or in support of a defense based upon pre-existing agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the city commission by resolution.

City of Cocoa Beach City Commission Agenda Item Summary

**DEPARTMENT MAKING
REQUEST/NAME:**

City Commission /
commission

MEETING DATE

March 6, 2025

REQUESTED MOTION/ACTION

Adopt Resolution 2025-03; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCOA BEACH, FLORIDA; providing legislative findings; AMENDING RESOLUTION NO. 2025-01 that set vacation rental fees and fines and false advertising fines, by providing for a "30-day reduced fee time period" for the payment of vacation registration fees and late fees; providing that all provisions of resolution No. 2025-01 shall remain effective except as temporarily revised by this resolution; and providing for severability and an effective date and ending date.

Staff Representative: City Commission

Recommendation: Approve upon Adoption of Ordinance 1695

IS THIS ITEM BUDGETED (IF APPLICABLE)?

n/a

BACKGROUND:

Resolution No. 2025-01 is hereby ratified and affirmed, but it is temporarily revised to provide for a "30-Day Reduced Fee Time Period" (hereinafter "Reduced Fee Time Period"), for the payment of vacation registration fees and late fees. During the Reduced Fee Time Period, the owner of any vacation rental can apply for a vacation rental registration at the reduced fee of \$500 per registration of a single vacation rental. At the time of such registration, if there is any late fee associated with that registration, such late fee shall be reduced by 50%. The Reduced Fee Time Period shall begin upon the day after the adoption of Ordinance 1695, which is anticipated to be on March 21, 2025. Therefore, the Reduced Fee Time Period shall begin on March 22, 2025, and end on April 21, 2025 at 4:00 pm. In the event Ordinance No. 1695 is adopted on a date different from March 21, 2025, the City Manager is directed to recompute the determination of the 30 day period for the Reduced Fee Time Period and place those revised dates on the City's website. To determine the date of application for a vacation rental registration and/or the payment of applicable late fees, (for purposes of determining whether the Reduced Fee Time Period is applicable), the later of the date of on-line or in-person registration and payment of all related fees shall be used. An incomplete application or the non-payment of all related fees shall not be considered to be an application for purposes of determining the date of application. It is noted, that before a vacation rental registration can be completed, such vacation rental must have a current City of Cocoa Beach Business Tax Receipt.

SECTION THREE: Effective Date and Ending Date: This resolution shall become in full force and effect upon final adoption of Ordinance No. 1695, and shall end on that day which is 31 days after the date of final adoption of Ordinance No. 1695.

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SECTION FOUR: The City Manager is directed to implement this Resolution and endeavor to publicize the Reduced Fee Time Period in a manner that to the maximum extent reasonably possible encourages the registration of vacation rentals in the City

RESOLUTION NO. 2025-03

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCOA BEACH, FLORIDA; PROVIDING LEGISLATIVE FINDINGS; AMENDING RESOLUTION NO. 2025-01 THAT SET VACATION RENTAL FEES AND FINES AND FALSE ADVERTISING FINES, BY PROVIDING FOR A “30-DAY REDUCED FEE TIME PERIOD” FOR THE PAYMENT OF VACATION REGISTRATION FEES AND LATE FEES; PROVIDING THAT ALL PROVISIONS OF RESOLUTION NO. 2025-01 SHALL REMAIN EFFECTIVE EXCEPT AS TEMPORARILY REVISED BY THIS RESOLUTION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE AND ENDING DATE.

WHEREAS, the City of Cocoa Beach (hereinafter “City”) enacts this Resolution through its home rule powers in the interest of the health, peace, safety, and general welfare of the citizens of and visitors to the City; and

WHEREAS, the City currently regulates vacation rentals located in the RS-1 single family residential zoning district (hereinafter “RS-1 District”), and is currently considering the adoption of an amendment to its vacation rental ordinance to expand the regulation of vacation rentals so as to include the entire City; and

WHEREAS, the City Commission of the City determines that providing for a “30-Day Reduced Fee Time Period” for the payment of vacation registration fees and late fees would be beneficial to the City and the owners and managers of vacation rentals in the City.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Cocoa Beach, Florida, as follows:

SECTION ONE: The above recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein.

SECTION TWO: Resolution No. 2025-01 is hereby ratified and affirmed, but it is temporarily revised to provide for a “30-Day Reduced Fee Time Period” (hereinafter “Reduced Fee Time Period”), for the payment of vacation registration fees and late fees. During the Reduced Fee Time Period, the owner of any vacation rental can apply for a vacation rental registration at the reduced fee of \$500 per registration of a single vacation rental. At the time of such registration, if there is any late fee associated with that registration, such late fee shall be reduced by 50%. The Reduced Fee Time Period shall begin upon the day after the adoption of Ordinance 1695, which is anticipated to be on March 21, 2025. Therefore, the Reduced Fee Time Period shall begin on March 22, 2025, and end on April 21, 2025 at 4:00 pm. In the event Ordinance No. 1695 is adopted on a date different from March 21, 2025, the City Manager is directed to recompute the determination of the 30 day period for the Reduced Fee Time Period and place those revised dates on the City’s website. To determine the date of application for a vacation rental registration and/or the payment of applicable late fees, (for purposes of determining whether the Reduced Fee Time Period is applicable), the later of the date of on-line or in-person registration and payment of all related fees shall be used. An incomplete application or the non-payment of all related fees shall not be considered to be an application for purposes of determining the date of

application. It is noted, that before a vacation rental registration can be completed, such vacation rental must have a current City of Cocoa Beach Business Tax Receipt.

SECTION THREE: Effective Date and Ending Date: This resolution shall become in full force and effect upon final adoption of Ordinance No. 1695, and shall end on that day which is 31 days after the date of final adoption of Ordinance No. 1695.

SECTION FOUR: The City Manager is directed to implement this Resolution and endeavor to publicize the Reduced Fee Time Period in a manner that to the maximum extent reasonably possible encourages the registration of vacation rentals in the City.

Upon Motion by Commissioner _____ and Seconded by Commissioner _____, this Resolution was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 6th day of March, 2025.

Ayes: _____
Nays: _____
Absent or Abstaining: _____

Keith Capizzi
Mayor-Commissioner

ATTEST:

Karin Grooms, City Clerk

Exhibit A

Cost	Per	Vacation Rentals
\$2500.00	Each	Vacation Rental Application & Registration Fee
\$1500.00	Each	Annual Renewal Vacation Rental Registration Fee
\$35.00	Each	Business Tax Receipt (BTR)
\$175.00	Each	Annual Safety (Fire) Inspection Fee
\$175.00	Each	Annual Building Department Inspection Fee
\$250.00	Each	No Show or Re-Inspection fee for initial and/or Annual Inspection Fee
\$525.00	Each	Change of Ownership Vacation Rental Application & Registration Fee
\$250.00	Each	Modification of existing vacation rental registration: (change in number of bedrooms or parking or change in location of parking spaces)
\$250.00	Each	Permanent Transfer of Responsible Party Fee (Site Manager)
\$250.00	Each	Temporary Transfer of Responsible Party Fee, each occurrence (max 30 days in a 12-month period)
\$1500.00	Each	Late Fee for Annual Registration
\$250.00	Day (First Day)	Penalty for Operating without Registration
\$500 per day	Second Day	Penalty for Operating without Registration
\$1000 per day	Third & subsequent days	Penalty for Operating without Registration per day beginning third day and beyond
\$500 per day	First day	Operating at over occupancy greater than permitted – first offense/first day
\$1000 per day	Second and subsequent days	Operating at over occupancy greater than permitted – second and subsequent offenses/per day
\$500 per day	Each offense	Parking not in compliance with the approved parking plan (Billed to Owner)

Exhibit “B”

Chapter 13.1 of the Cocoa Beach City Code provides in pertinent part:

Sec. 13.1-4. Specific misleading advertisements prohibited; punishments.

- (a) It shall be unlawful for any person to make or disseminate or cause to be made or disseminated before the general public, or any portion thereof, any misleading advertisement with a rational nexus to the City of Cocoa Beach. Such making or dissemination of misleading advertising with a rational nexus to the City of Cocoa Beach shall constitute and is hereby declared to be fraudulent and unlawful, designed and intended for obtaining money or property under false pretenses.
- (b) Every day a violation of this section continues shall constitute a separate offense which shall be separately punished. Every discrete misleading advertisement shall constitute a separate offense which shall be separately punished.
- (c) Every first violation of this section shall be deemed a civil infraction which may be punished in accordance with the provisions of section 30-22 of this Code. For purposes of the civil infraction, the civil penalty shall be as set forth in a Resolution of the city commission.
- (d) Persons found to have committed repetitive misleading advertising activity, and the owners of the vacation rentals that are the subject of such repetitive misleading advertising activity, shall each be fined in an amount computed by the Special Magistrate based on criteria as set forth in a Resolution adopted by the city commission. If a management company or individual registered the vacation rental under the city's Vacation Rental Ordinance, such management company or individual, for the purposes of enforcing this ordinance, shall be subject to a rebuttable presumption to have been the person to have committed repetitive misleading advertising activity. Notices of violations under this article shall be sent to the management company, individual and owner of a vacation rental, and they shall then have a duty to monitor future advertisements of the vacation rental to prevent repetitive misleading advertising activity. The determination of whether a repetitive misleading advertising activity has taken place shall be made in a quasi-judicial hearing before the Special Magistrate of the City of Cocoa Beach.
- (e) In addition, any violation of this section is deemed a public nuisance, and shall be subject to abatement by the city, and any person who is found in violation of this section shall be subject to injunctive relief in a court of competent jurisdiction to enjoin the violation, as well as any other relief permitted by law, and such relief shall be cumulative.

Sec. 13.1-5. Presumption.

There shall be a rebuttable presumption that the person(s) named in or obtaining the benefits, or calculated to obtain the benefits, of any misleading advertisement, or any rental, or prospective rental of any lodging establishment or other dwelling about which there is a misleading advertisement, including, but not limited to the owner(s) and the individual or management company handling such lodging establishment or other dwelling, are responsible for such misleading advertisement, have committed the violation prohibited herein, and are subject to the punishment provided herein.

- The civil infraction for a first violation shall be \$250.00.
- The civil infraction for a second violation shall be \$500.
- Subsequent violations shall each be punished by a civil infraction of \$1000.00 each.

Civil infractions shall be assessed against those persons/entities as described in the above quoted ordinance provision.

Resolution 2025-01 – Vacation Rental Fees Exhibit “B”