



# **EXECUTIVE ORDER 21-223 - Biden Border Crisis Frequently Asked Questions**

*September 28, 2021*

## **WHAT IS THE INTENT OF THIS EXECUTIVE ORDER?**

This order serves two purposes: first, to ensure that Florida agencies under the control of the Governor do not assist or facilitate illegal immigration to Florida, unless otherwise required by state or federal law; and second, to collect information from state officials concerning the impact of illegal aliens in Florida. The Biden Administration is actively facilitating illegal immigration into the United States on a mass scale. This order makes abundantly clear that Florida will provide no aid to that effort.

## **DOES THIS ORDER VIOLATE THE SUPREMACY CLAUSE OF THE CONSTITUTION?**

No. Nothing in this order is contrary to, or otherwise conflicts with, federal immigration law. Indeed, the overarching purpose of this order is to take steps necessary to ensure that the State of Florida can hold the Biden Administration accountable, consistent with the U.S. Constitution, for the enforcement of the immigration laws of the United States.

## **WHAT MEASURES ARE BEING TAKEN TO CURB THE RESETTLEMENT OF ILLEGAL ALIENS TO FLORIDA?**

Under the U.S. Constitution, states are not permitted to interfere with the operations of the Federal Government. At the same time, however, states are not required to assist the Federal Government in carrying out federal duties. This order makes clear that Florida agencies under the direction of the Governor may not aid the Biden Administration in its efforts to facilitate the resettlement of illegal aliens from the southwest border to Florida. In addition, the State of Florida is suing the Biden Administration to stop its unlawful practice of releasing large numbers of illegal aliens into the United States.

## **WHAT DATA WILL BE COLLECTED?**

The order directs the Florida Department of Law Enforcement (FDLE) to use all lawful means to determine the number and identities of illegal aliens that have already been transported since January 2021, and will be transported in the future, from the southwest border to Florida, including information on their destinations, their criminal records, and their removal proceedings, among other things. The order also seeks information on the number of illegal aliens pending criminal prosecution in state courts, the amount of state and local funds expended on illegal aliens for health care and various social services, and the amount expended for education of unaccompanied alien minors released to sponsors in Florida.



# **EXECUTIVE ORDER 21-223 - Biden Border Crisis Frequently Asked Questions**

*September 28, 2021*

## **WHY IS THIS NECESSARY?**

The Biden Administration has an obligation to provide transparent, informative data on its immigration enforcement activities, and yet it is failing to do so. The information sought is necessary to hold the Biden Administration accountable and to ensure that Florida's interests are protected and that future policy decisions relating to immigration are better informed.

## **WILL THE DATA BE PUBLICLY AVAILABLE?**

The order requests that the following information be made publicly available: the number of illegal aliens pending criminal prosecution, the amount of state and local funds expended on health care for illegal aliens, and the amount of state funds expended on illegal aliens for social services. Information will be made publicly available only in accordance with Florida law.

## **IS THIS DATA COLLECTION A VIOLATION OF PRIVACY RIGHTS?**

No. The information may only be collected, shared, and disclosed in accordance with state and federal law, including relevant privacy laws.

## **DOES THIS ORDER IMPACT ALIENS ALREADY IN FLORIDA?**

Nothing in this order affects foreign nationals who are present in Florida and have a lawful immigration status. The order is focused solely on illegal immigration.

## **WILL THIS ADVERSELY IMPACT ALIEN CHILDREN IN FLORIDA SCHOOLS?**

No. Under U.S. Supreme Court precedent, *Plyler v. Doe*, 457 U.S. 202 (1982), the State of Florida may not deny primary or secondary public education to illegal alien children. Nothing in this order interferes with Florida's legal obligations.

## **DOES THIS ORDER VIOLATE CONSTITUTIONAL RIGHTS AGAINST ILLEGAL SEARCH AND SEIZURE?**

No. Under U.S. Supreme Court precedent, *Arizona v. United States*, 567 U.S. 387 (2012), a state law enforcement officer may inquire into the immigration status of any person the officer reasonably believes to be unlawfully present in the United States if the officer has an independent basis to lawfully detain the person. Consistent with this precedent, the order encourages FDLE and Florida Highway Patrol agents and officers to detain any aircraft, bus, or



# **EXECUTIVE ORDER 21-223 - Biden Border Crisis Frequently Asked Questions**

*September 28, 2021*

other vehicle within the State of Florida reasonably believed to be transporting illegal aliens to Florida from the southwest border, if the agent or officer has a reasonable articulable suspicion that the aircraft, bus, or other vehicle is being used in the commission of a state crime, especially any state offense for human trafficking or drug trafficking. The order makes clear that the detention should be conducted consistent with the U.S. and Florida Constitutions and should last no longer than reasonably necessary to resolve the suspicion that justified the detention. The order further makes clear that under no circumstances may an agent or officer consider a person's race, color, ethnicity, national origin, or other immutable characteristic, except as permitted by the U.S. and Florida Constitutions.

## **THE STATE WILL BE CONDUCTING REVIEWS OF EMPLOYERS AROUND THE STATE. WHAT DOES THIS MEAN FOR MY BUSINESS?**

It will be business as usual, so to speak, for employers that have been following employment screening laws. Since January 1, 2021, Florida law has required private businesses to verify the work eligibility of new employees by using the E-Verify system or by obtaining the documentation required for the U.S. Citizenship and Immigration Services' Employment Eligibility Verification form (Form I-9). The order requests that the FDLE Commissioner conduct regular reviews of businesses in Florida to ensure compliance with these requirements. The order prioritizes review of publicly traded corporations and companies with more than 200 employees that operate in sectors of the economy known for employing illegal aliens.