



# EXECUTIVE ORDER 21-223 - Biden Border Crisis Summary

September 28, 2021

**Section 1.** Prohibits any Florida agency under the direction of the Governor from assisting the federal government, or any federal contractor or non-governmental organization, in transporting to Florida any illegal aliens apprehended at the southwest border, except as otherwise required by federal or state law.

**Section 2.** Requires all agencies under the direction of the Governor to use the federal government's "SAVE" program or similar verification program, if available, to verify eligibility for benefits where applicable.

**Section 3.** Directs the Commissioner of the Florida Department of Law Enforcement to use all lawful investigative means to determine the number and identities of illegal aliens transported from the southwest border to Florida since January 2021 until the effective date of the executive order. To the extent permitted by law, the information collected should include the name, country of origin, and last known address of each illegal alien; whether the illegal alien is an adult or minor; the criminal history of the illegal alien, including whether the alien has previously entered the United States illegally; the name and last known address of the sponsor of each illegal alien (if applicable); and the date, location, and status of removal proceedings for each illegal alien, including whether the alien has failed to appear for his or her removal proceeding.

**Section 4.** Directs the Commissioner of the Florida Department of Law Enforcement to use all lawful investigate means to determine on an ongoing basis the number and identities of illegal aliens that the federal government, as well as any federal contractors or non-governmental organizations, are transporting from the southwest border to Florida after the effective date of the executive order. To the extent permitted by law, the information collected should include the name and destination of each illegal alien; the anticipated date and location of arrival; whether the illegal alien is an adult or minor; whether the illegal alien has been tested for the coronavirus; the criminal history of the illegal alien, including whether the alien has previously entered the United States illegally; the name and address of the sponsor of each illegal alien (if applicable); and the date, location, and status of removal proceedings for each illegal alien. If chartered aircraft or buses are used to transport illegal aliens, the Commissioner of the Florida Department of Law Enforcement should collect information on the anticipated arrival date, time, and location of each charter.

**Section 5.** Under U.S. Supreme Court precedent, *Arizona v. United States*, 567 U.S. 387 (2012), states may require law enforcement officers to 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.



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Consistent with this precedent, the order encourages Florida Department of Law Enforcement and Florida Highway Patrol agents and officers to (1) detain any aircraft, bus, or other vehicle within the State of Florida reasonably believed to be transporting illegal aliens to Florida from the southwest border and (2) reasonably attempt to determine the immigration status of any detained person the agent or officer reasonably believes is an illegal alien, if the agent or officer has reasonable 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.

**Section 6.** Requests the Statewide Prosecutor and State Attorneys to provide on a monthly basis (1) the number of illegal aliens and the total number of persons who have been charged and are pending criminal prosecution, including the number of offenses charged by type for each group, and (2) the number of illegal aliens and the total number of persons who were convicted in the preceding month, including the offenses of conviction by type for each group. Also requests the Statewide Prosecutor and State Attorneys to identify persons pending criminal prosecution whom they reasonably believe, but have been unable to confirm, are illegal aliens and to provide that information to the Florida Department of Law Enforcement so that the Department can verify the immigration status of those persons with the federal government.

**Section 7.** Directs the Agency for Health Care Administration, in coordination with the Department of Children and Families, and the Department of Health, in coordination with the County Health Departments, to use all lawful means to determine the amount of state and local funds expended on the health care of illegal aliens. In addition, directs the Agency for Health Care Administration to require managed care plans and hospitals to report any Medicaid or other expenditures incurred for illegal aliens. Where possible, the information should distinguish between federal, state, and local funds.

**Section 8.** Directs the Department of Children and Families to use all lawful means to determine the amount and purpose of state funds that it has expended on illegal aliens, including the number of illegal aliens served. In addition, directs the Department to determine whether the resettlement of unaccompanied alien children to Florida is a sufficient need to justify the award of a license to facilities that apply to house



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unaccompanied alien children. If not, then the Department is directed to not grant or renew any such license and to prohibit existing licensees from accepting additional unaccompanied alien children. Finally, the order directs the Department to determine whether facilities that place unaccompanied alien children with sponsors in Florida should be required to conduct regular follow-up welfare checks to ensure the continued well-being of the children once they leave the facilities.

**Section 9.** Requests the Commissioner of the Florida Department of Law Enforcement to conduct regular reviews of companies doing business in the State of Florida to ensure compliance with Section 448.095(3), Florida Statutes, which requires private employers to verify the employment eligibility of new employees—i.e., that the employee is not an illegal alien unauthorized to work in the United States. The Commissioner should prioritize review of publicly traded corporations or companies with more than 200 employees that operate in sectors of the economy known for employing illegal aliens.

**Section 10.** Directs all Florida agencies under the direction of the Governor that uncover evidence of a crime by or involving an illegal alien to report the evidence to the Florida Department of Law Enforcement for appropriate action. In addition, directs all such agencies that uncover a violation of law by a private contractor or non-governmental organization involved in the resettlement of illegal aliens to Florida or in the placement of unaccompanied minors with sponsors in Florida to take all appropriate action permitted under state law, including fines or the revocation of licenses.

**Section 11.** Defines “illegal alien” for purposes of the executive order as an alien, as defined in 8 U.S.C. § 1101(a)(3), who is present in the United States and does not have a lawful immigration status under the immigration laws of the United States. Lawful immigration status does not include parole under 8 U.S.C. § 1182(d)(5). The term “unaccompanied alien child” has the meaning set forth in 6 U.S.C. § 279(g)(2).

**Section 12.** Directs that all information requested by the executive order be collected, shared, or disclosed in accordance with federal and state law, including any relevant privacy laws.

**Section 13.** Includes a severability clause, which makes clear that, if any provision of the executive order is invalidated, the remainder of the order will remain in effect.

**Section 14.** Directs that the executive order take effect immediately.