

STATE OF FLORIDA

OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 21-223 (Biden Border Crisis)

WHEREAS, the faithful enforcement of immigration law is essential for a safe, healthy, and prosperous State of Florida; and

WHEREAS, immigration enforcement must include a secure Southwest Border that prevents mass illegal entry into the United States; and

WHEREAS, the detrimental effects of an unsecure Southwest Border will reverberate far beyond the border states; and

WHEREAS, such detrimental effects include crime, drug trafficking, human trafficking and smuggling, diminished economic opportunities and wages for American workers, stresses on the education and healthcare systems, and the spread of communicable diseases, including the coronavirus; and

WHEREAS, the Biden administration is failing to faithfully enforce the immigration laws enacted by Congress; and

WHEREAS, the Biden administration has terminated the Migrant Protection Protocol program (also known as the “Remain in Mexico” policy), reinstated a “catch and release” policy, ended further border wall construction, declined to detain and remove certain criminal illegal aliens, and failed to make full use of public health authorities to expel illegal aliens due to the pandemic; and

WHEREAS, the Biden administration’s termination of the Migrant Protection Protocol program and its refusal to detain and remove certain criminal aliens have been found by some

federal courts to be illegal, *see, e.g.*, Memorandum Opinion and Order, *Texas v. Biden*, No. 2:21-CV-067-Z (N.D. Tex. Aug. 13, 2021), and Memorandum Opinion and Order, *Texas v. United States*, No. 6:21-cv-00016 (S.D. Tex. Aug. 19, 2021); and

WHEREAS, the Biden administration’s policy of apprehending large numbers of illegal aliens at the Southwest Border and then releasing them into the interior of the United States is also illegal; and

WHEREAS, the Biden administration’s failure to enforce federal immigration law has predictably led to what the U.S. Secretary of Homeland Security has acknowledged as an “unprecedented” number of border crossings, with law enforcement encountering over 212,000 persons attempting entry along the Southwest Border in July 2021 alone, the highest in more than 20 years, and another 208,000 in August 2021; and

WHEREAS, the number of border encounters in July and August 2021 represents a nearly threefold increase from the number of encounters in January 2021, such that the total number of encounters at the Southwest Border now exceed 1.5 million with one month remaining in Federal Fiscal Year 2021; and

WHEREAS, the U.S. Border Patrol released 60,607 illegal aliens from the Southwest Border into the United States in July 2021 and another 43,941 in August 2021, a massive increase from the 17 illegal aliens released in December 2020; and

WHEREAS, the U.S. Border Patrol alone has released over 225,000 illegal aliens from the Southwest Border into the United States since January 2021; and

WHEREAS, the Governors of Arizona and Texas, experiencing the grave consequences of the Biden administration’s lack of immigration enforcement at the Southwest Border, requested law enforcement assistance from other states in order to help quell the crisis; and

WHEREAS, state and local law enforcement officers across Florida, recognizing the severity of the crisis, answered the call for help and deployed to the Southwest Border; and

WHEREAS, the Biden administration has actively facilitated the resettlement of illegal aliens throughout the United States, including Florida; and

WHEREAS, as of July 31, 2021, 7,986 unaccompanied alien children apprehended by federal immigration authorities (also known as unaccompanied children) have been released to sponsors in Florida during Federal Fiscal Year 2021; and

WHEREAS, from January through May 2021, federal contractors responsible for placing unaccompanied alien children with sponsors across the United States reportedly were unable to reach the minor or the sponsor in roughly one of every three attempts; and

WHEREAS, the resettlement of unaccompanied alien children from the Southwest Border to Florida undermines the delivery of child welfare services to children who already reside in Florida; and

WHEREAS, it is necessary to collect additional data and information on illegal aliens who have resettled in Florida from the Southwest Border, the illegal alien population in Florida generally, and the impact of illegal immigration on the health, safety, welfare, and prosperity of Floridians; and

WHEREAS, Article IV, Section 1(a) of the Florida Constitution directs the Governor to “take care that the laws be faithfully executed” and to “transact all necessary business with the officers of government”; empowers the Governor to “require information in writing from all executive or administrative state, county or municipal officers upon any subject relating to the duties of their respective offices”; and designates the Governor as “the chief administrative officer of the state responsible for the planning and budgeting for the state”; and

WHEREAS, Chapter 943, Florida Statutes, endows the Florida Department of Law Enforcement with wide-ranging powers for the protection of the welfare, health, peace, safety, and morals of all Floridians; and

WHEREAS, Section 943.03(5), Florida Statutes, provides the Florida Department of Law Enforcement with the ability to enter into cooperative agreements with “other agencies, organizations, associations, corporations, individuals, or federal agencies as the department may determine are necessary, expedient, or incidental” to the execution of the Department’s statutory duties; and

WHEREAS, pursuant to Section 27.02(1), Florida Statutes, State Attorneys are responsible, except where otherwise provided by law, for prosecuting all criminal actions in which the state is a party; and

WHEREAS, pursuant to Section 16.56(1)(a), Florida Statutes, the Office of Statewide Prosecution is responsible for investigating and prosecuting various enumerated criminal offenses where “any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits”; and

WHEREAS, pursuant to Section 20.42(3), Florida Statutes, the Agency for Health Care Administration is the “chief health policy and planning entity for the state”; and

WHEREAS, pursuant to Sections 20.42(3) and 409.913(2), Florida Statutes, the Agency for Health Care Administration is responsible for administering the Medicaid program and conducting reviews and investigations into uses of Medicaid to determine possible fraud, abuse, or other potentially unlawful uses; and

WHEREAS, pursuant to Section 20.43(1), Florida Statutes, the Department of Health is responsible for collecting, managing, and analyzing “vital statistics and other health data to inform

the public and formulate public health policy and planning” and for ensuring “the provision of quality health care and related services to identified populations in the state”; and

WHEREAS, pursuant to Section 20.43(5), Florida Statutes, the Department of Health plans and administers “its public health programs through its county health departments”; and

WHEREAS, pursuant to Section 20.19(1)(a), Florida Statutes, the Department of Children and Families is responsible for partnering “with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency”; and

WHEREAS, pursuant to Section 20.19(1)(c) and Section 20.19(4), Florida Statutes, the Department of Children and Families, to the extent permitted by law, “shall deliver services by contract through private providers,” including, among other things, services for “[c]hild care regulation” and “[c]hild welfare”; and

WHEREAS, pursuant to Section 409.175(5), Florida Statutes, the Department of Children and Families “shall adopt and amend rules for the levels of licensed care associated with the licensure of family foster homes, residential child-caring agencies, and child-placing agencies”; and

WHEREAS, Section 448.095(3)(e), Florida Statutes, authorizes the Attorney General and the Florida Department of Law Enforcement to request, and directs private employers to provide, “any documentation relied upon by the private employer for the verification of a person’s employment eligibility.”

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Except as otherwise required by federal or state law, no Executive Agency under the direction of the Governor shall provide support or resources to, or in any way assist, the U.S. Department of Homeland Security, or any other federal department or agency, federal contractor, or non-governmental organization, in transporting to the State of Florida any aliens apprehended at the Southwest Border who do not have lawful status under the immigration laws of the United States.

Section 2. All Executive Agencies under the direction of the Governor that provide funds, resources, benefits, or any other thing of value to any person shall utilize, unless prohibited by law or otherwise unavailable, the U.S. Citizenship and Immigration Services' Systematic Alien Verification for Entitlements program (known as "SAVE"), or any successor or similar applicable verification program, to confirm the eligibility of such person before providing any funds, resources, benefits, or any other thing of value.

Section 3. Pursuant to my authority under Article IV, Section 1(a) of the Florida Constitution to require information from state officers, I hereby direct the Commissioner of the Florida Department of Law Enforcement to use all lawful investigative means available, including direct law enforcement requests to the U.S. Department of Homeland Security, requests for information under the Freedom of Information Act (5 U.S.C. § 552), or any other lawful means, to determine the number and identities of all illegal aliens who have been transported from the Southwest Border to the State of Florida since January 2021 until the effective date of this Executive Order and are believed to remain in Florida. 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. The Commissioner should, where permitted by law, coordinate with state and local partners to share information on any individual reasonably suspected of involvement in the commission of offenses that would constitute a violation of Florida law, especially any state offense for human trafficking or drug trafficking, in an effort to detect, prevent, and mitigate threats to public safety within the State of Florida.

Section 4. Pursuant to my authority under Article IV, Section 1(a) of the Florida Constitution to require information from state officers, I hereby further direct the Commissioner of the Florida Department of Law Enforcement, with the assistance of the Florida Highway Patrol, to use all lawful investigative means available, including direct law enforcement requests to the U.S. Department of Homeland Security, coordination with law enforcement authorities of states on the Southwest Border, coordination with Florida airport authorities, requests for information under the Freedom of Information Act (5 U.S.C. § 552) or Florida's Public Records Law (as applicable), or any other lawful means, to determine on an ongoing basis the number and identities of all illegal aliens whom the U.S. Department of Homeland Security, as well as any other federal departments or agencies, federal contractors, or affiliated non-governmental organizations, are transporting from the Southwest Border to the State of Florida after the effective date of this Executive Order. To the extent permitted by law, the information collected should include the name, country of origin, 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. In addition, if chartered aircraft or buses are used to transport illegal aliens to Florida, the

Commissioner of the Florida Department of Law Enforcement should collect information on the anticipated arrival date, time, and location of each charter. The Commissioner should, where permitted by law, coordinate with state and local partners to share information on any individual reasonably suspected of involvement in the commission of offenses that would constitute a violation of Florida law, especially any state offense for human trafficking or drug trafficking, in an effort to detect, prevent, and mitigate threats to public safety within the State of Florida.

Section 5. In collecting the information sought in Section 4, agents and officers of the Florida Department of Law Enforcement and the Florida Highway Patrol are authorized and encouraged, consistent with federal and state law, to 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, 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 offense, especially any state offense for human trafficking or drug trafficking. During any detention authorized by this section, the agent or officer should reasonably attempt to determine, including by contacting U.S. Immigration and Customs Enforcement under 8 U.S.C. § 1373(c), the immigration status and other information sought in Section 4 of any detained person whom the agent or officer reasonably suspects is an illegal alien from the Southwest Border. The detention should be conducted consistent with the United States and Florida Constitutions and should last no longer than reasonably necessary to resolve the suspicion that justified the detention. 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 United States and Florida Constitutions.

Section 6. Pursuant to my authority under Article IV, Section 1(a) of the Florida Constitution to require information from state officers, I hereby request that the Statewide Prosecutor and State Attorneys provide to the Executive Office of the Governor and the Florida

Department of Law Enforcement on a monthly basis beginning November 1, 2021, the number of illegal aliens and, for purposes of comparison, the total number of persons who have been charged and are pending criminal prosecution within their respective jurisdictions, including the number of offenses charged by type for each group, and the number of illegal aliens and, for purposes of comparison, the total number of persons who were convicted in the preceding month, including the offenses of conviction by type for each group. The Florida Department of Law Enforcement should make this information available to the public on its website. In addition, the Statewide Prosecutor and the State Attorneys should provide to the Florida Department of Law Enforcement the name, and any other relevant identifying information, including the charges, of all persons pending criminal prosecution whom the Statewide Prosecutor or State Attorney reasonably believes, but has been unable to confirm, are illegal aliens. The Florida Department of Law Enforcement should immediately provide that information to the U.S. Department of Homeland Security, which is obligated under 8 U.S.C. §§ 1226(d)(3) and 1373(c) to provide assistance in the identification of aliens unlawfully present in the United States who are pending criminal charges.

Section 7. The Agency for Health Care Administration, in coordination with the Department of Children and Families, and the Department of Health, in coordination with County Health Departments, shall use all lawful means available to determine the amount of state and local funds expended on the health care, including emergency care, of illegal aliens in the State of Florida for Fiscal Year 2021 and for each fiscal year thereafter. In addition, the Agency for Health Care Administration shall require, consistent with federal and state law, managed care plans and hospitals to report any Medicaid or other governmental expenditures incurred for illegal aliens for each fiscal year beginning with Fiscal Year 2021. Where possible, this information should distinguish between federal, state, and local funds. As applicable, the Agency for Health Care Administration and the Department of Health shall provide the requested information to the

Executive Office of the Governor and shall also make the information available to the public on its website.

Section 8. The Department of Children and Families shall use all lawful means available to determine the amount and purpose of state funds expended by the Department on illegal aliens, including the number of illegal aliens, for Fiscal Year 2021 and for each fiscal year thereafter. The Department shall provide the requested information to the Executive Office of the Governor and shall also make the information available to the public on its website. In addition, the Department shall determine whether the resettlement of unaccompanied alien children in Florida from outside of the state constitutes “evidence of need” under Section 409.175(5)(b)(1), Florida Statutes, sufficient to justify the award of a license under Florida law to family foster homes, residential child-caring agencies, or child-placing agencies that seek to provide services for unaccompanied alien children. To the extent that such resettlement of unaccompanied alien children in Florida is determined not to constitute “evidence of need” under Florida law, the Department shall accordingly amend, if necessary, Florida Administrative Code Rule 65C-46.022, “Standards for Unaccompanied Alien Children (UAC) Homes and Unaccompanied Refugee Minor Programs,” in accordance with state law, to reflect the Department’s determination and shall not grant or renew any license for any family foster home, residential child-caring agency, or child-placing agency that applies to house unaccompanied alien children in Florida and shall prohibit family foster homes, residential child-caring agencies, or child-placing agencies that already house unaccompanied alien children in Florida from accepting additional unaccompanied alien children. Finally, given the particular vulnerability of unaccompanied alien children, the Department shall also amend, in accordance with state law, Florida Administrative Code Rule 65C-46.022 to require, as a condition of licensure, the residential child-caring agencies or child-placing agencies, as applicable, to conduct in-person welfare checks of the unaccompanied alien children that they

place with sponsors in Florida if the Department determines that such checks are permitted by state law and are necessary to ensure both the well-being of the child and compliance with state law, including the prevention of human trafficking. These welfare checks should be conducted no less than once every six months until the child attains the age of 18, permanently leaves the State of Florida, is removed from the United States, or is granted a lawful immigration status, whichever comes first. The residential child-caring agencies or child-placing agencies, as applicable, shall document each welfare check, including whether the unaccompanied alien child has been enrolled in a Florida public school, and shall maintain such records until the child attains the age of 18, permanently leaves the State of Florida, is removed from the United States, or is granted a lawful immigration status, whichever comes first. The residential child-caring agencies or child-placing agencies, as applicable, shall notify the Department, which shall document and maintain a record of such notification, if they are unable to make contact with the sponsor of the unaccompanied alien child, if they are otherwise unable to confirm the welfare of the unaccompanied alien child, or if the welfare of the unaccompanied alien child is in jeopardy. The Department shall then take appropriate action under state law. The Department shall conduct regular audits to ensure that the residential child-caring agencies and child-placing agencies are complying with these requirements.

Section 9. As authorized by Section 448.095(3)(e), Florida Statutes, I request that the Commissioner of the Florida Department of Law Enforcement, in consultation with the Attorney General, conduct regular audits of companies doing business in the State of Florida, consistent with available appropriations, to ensure compliance with Section 448.095(3), Florida Statutes, which requires private employers to verify the employment eligibility of new employees. The Commissioner should prioritize audits of publicly traded corporations or companies with more than 200 employees that operate in sectors of the economy known for employing illegal aliens.

The Commissioner should notify the Department of Economic Opportunity of any violations of Section 448.095(3), and the Department shall take appropriate action under Section 448.095(3)(f).

Section 10. In carrying out the actions required by this Executive Order, any Executive Agency under the direction of the Governor that uncovers evidence of a crime perpetrated by or involving an illegal alien, including human trafficking, drug trafficking, crimes of violence, fraud, theft, child abuse or neglect, or any other offense, shall report the evidence to the Florida Department of Law Enforcement for appropriate action. In addition, any Executive Agency under the direction of the Governor with appropriate jurisdiction that uncovers 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 alien children with sponsors in Florida shall, consistent with federal and state law, take all appropriate action permitted under state law, including fines or the revocation of licenses.

Section 11. For purposes of this Executive Order, an “illegal alien” is 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. The information requested by this Executive Order may only be collected, shared, or disclosed in accordance with federal and state law, including any relevant privacy laws.

Section 13. If any provision of this Executive Order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this Executive Order and the application of its other provisions to any other persons or circumstances shall not be affected thereby.

Section 14. This Executive Order is effective immediately.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 28th day of September, 2021.



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

2021 SEP 28 PM 12:07
CLERK OF STATE
TALLAHASSEE, FL

FILED