

Florida Bill 1718: Potential Impact on Employers and Employees in Florida

Overview

- On May 10, 2023, Senate Bill 1718 was signed into law by Governor Ron DeSantis.
- The bill aims to target the influx of illegal immigration into the state with tougher employment requirements, including adding some of the strongest penalties in the nation.
- The bill requires any employer with 25 or more employees to use the E-Verify system for new employees beginning July 1, 2023. Failure to comply could lead to a penalty of \$1,000 per day until the error is rectified (effective July 1, 2024).
- Employers cannot continue to employ an unauthorized alien after obtaining constructive knowledge that an individual is illegal. According to Florida Statute Section 448.09, it is unlawful to knowingly employ, hire, recruit, or refer any person who does not have authorization to work through immigration laws or the Attorney General of the United States.
- The bill creates penalties for employers who knowingly employ unauthorized aliens (effective July 1, 2024) of a \$1,000 fine for the first violation, and a \$2,500 fine and a misdemeanor charge for the second and subsequent violations. In addition, employers can face potential suspension or revocation of all applicable state licenses and be potentially required to repay any economic development incentives received by employers from the state.
- Out-of-state driver's licenses and permits issued by other states exclusively to "unauthorized immigrants" will no longer be recognized in Florida. Those individuals are further prevented from obtaining a Florida driver's license.
- Undocumented immigrants using false identification documents will now commit a third-degree felony with a maximum of five years of prison time, a \$5,000 fine, and five years of probation.
- Transporting a person living in the country illegally across state lines into Florida is also a third-degree felony.
- There is a significant expansion of the Florida Department of Law Enforcement (FDLE) to include immigration enforcement matters, including I-9 audits.

E-Verify background

- E-Verify is a web-based system through which employers electronically confirm the employment eligibility of their employees.
- Information inputted into E-Verify is taken from the employee's Form I-9 and then electronically compared against the Department of Homeland Security (DHS) and Social Security Administration (SSA) records.
- Currently, there are 27 U.S. States that require at least some or all employers to utilize E-Verify.

Analysis

- Governor DeSantis and legislators are focused on addressing the significant increase in asylum seekers entering the state over the last year and a half.
- Employers will need to conduct an immediate assessment of their employee populations to ensure that, if required, they:
 1. • are registered with E-Verify (which requires Employers to retain employee documents for three years from the date of hire if they have not already done so),
 2. • potentially conduct an internal audit of existing forms I-9 and documentation,
 3. • ensure that all hiring procedures are compliant with the new requirements and that a system is in place to handle complaints and other related matters, and,
 4. • seek alternative solutions to an already challenging staffing environment.



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Related Practice Areas

- Immigration Policy & Strategy
- Labor & Employment

Next Steps

- In light of this legislation being enacted, it is imperative that Florida employers complete an assessment of their I-9 program, hiring practices, onboarding procedures, resolution processes, and E-Verify compliance.
- Florida employers should also train managers, HR professionals, and onboarding/hiring staff on E-Verify and the importance of proper analysis of I-9 documentation.

Cozen O'Connor has a team of dedicated immigration professionals who focus on I-9 compliance including conducting detailed audits and providing an assessment and analysis of the state of an employers I-9 program. Please contact us if you have any questions.