

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1451 Identification Documents
SPONSOR(S): Michael
TIED BILLS: IDEN./SIM. **BILLS:** SB 1174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	12 Y, 5 N	Mwakyanjala	Darden
2) State Affairs Committee			

SUMMARY ANALYSIS

Counties and municipalities are prohibited from providing funds to any person, entity, or organization for the purpose of issuing an identification card or document to a person who does not provide proof of lawful presence in the United States. Prior to the enactment of this prohibition, several counties had partnered with local organizations to offer a community ID card which would enable residents to provide a form of identification to law enforcement, schools, organizations, and social service agencies.

The bill prohibits a county or a municipality from accepting as identification any identification card or document that is issued by any person, entity, or organization that knowingly issues the identification cards or documents to individuals who are not lawfully present in the United States. This prohibition does not extend to any documentation that is issued by or on behalf of the Federal Government.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Immigration Laws

The Federal Government establishes and enforces immigration laws. The federal Immigration and Nationality Act (INA) contains many of the most important provisions of immigration law.¹

The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations, is responsible for enforcing the immigration laws and identifying, apprehending, and removing aliens who are a risk to national security or public safety, who are in the country illegally, or who undermine the integrity of the country's immigration laws or border control efforts.²

U.S. Customs and Border Protection (Border Patrol) is the federal law enforcement agency responsible for securing the nation's borders and facilitating international travel and trade. The Border Patrol's top priority is to keep terrorists and their weapons from entering the United States. Border Patrol enforcement actions include 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, individuals who withdraw an application for admission and return to their countries of origin within a short timeframe, and individuals apprehended or expelled, including individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.³ The following is the total number of persons encountered by Border Patrol in the past five fiscal years:

FY 2020	646,822
FY 2021	1,956,519
FY 2022	2,766,582
FY 2023	3,201,144
FY 2024 (Year-to-Date)	988,819

In addition to the dramatic increase in border encounters, the recidivism rate has also increased. According to the Border Patrol webpage, "recidivism refers to percentage of individuals apprehended more than one time by the Border Patrol within a fiscal year." In FY 2019, the rate was only 7 percent. However, that climbed to an increase of 26 percent in FY 2020 and 27 percent in FY 2021.⁴

Encounters with criminal noncitizens in FY 2020 were 7,009, in FY 2021 were 6,567, in FY 2022 were 16,993, in FY 2023 were 20,166, and so far in FY 2024 are 4,805. "Criminal noncitizens refers to noncitizens who have been convicted of crime, whether in the United States or abroad, so long as the conviction is for conduct which is deemed criminal by the United States."⁵

Ordinances

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special

¹ 8 U.S.C. ch. 12.

² U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations, Mission*, <https://www.ice.gov/ero> (last visited Jan. 26, 2024).

³ U.S. Customs and Border Protection, *CBP Enforcement Statistics*, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited Jan. 26, 2024).

⁴ *Id.*

⁵ *Id.*

law.⁶ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.⁷ Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.⁸ A local government enactment may be inconsistent with state law if the:

- State Constitution preempts the subject area;
- Legislature preempts the subject area; or
- Local enactment conflicts with a state statute.

Driver Licenses

Current law prohibits a person from driving any motor vehicle upon a Florida highway unless such person has a valid driver license issued under ch. 322, F.S.⁹ However, an individual is exempt from obtaining a Florida driver license if he or she is a nonresident who is:¹⁰

- At least 16 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a type of motor vehicle for which a Class E driver license is required in this state.
- At least 18 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a motor vehicle, other than a commercial motor vehicle, in this state.

Current law establishes requirements governing the issuance of driver licenses by Department of Highway Safety and Motor Vehicles (DHSMV).¹¹ An applicant for a driver license or identification card is required to provide his or her SSN for the purpose of identification. This information is electronically verified with the Social Security Administration to confirm identity, as required by the Real ID Act of 2005. Applicants are required to provide proof of identity that is satisfactory to the DHSMV. The following documents constitute acceptable proof of identification:¹²

- A certified copy of a United States birth certificate;
- A valid, unexpired passport or passport card;
- A Certificate of Naturalization issued by the DHS;
- A valid, unexpired alien registration receipt card (green card);
- A Consular Report of Birth Abroad; and
- A valid, employment authorization card issued by the DHSMV.

DHSMV is authorized to require an applicant for an original driver license to produce certain DHS or foreign documents to prove nonimmigrant classification for the sole purpose of establishing continuous lawful presence in the United States.¹³

DHSMV is authorized to waive the Class E knowledge (written) and skills requirements if an applicant for an original driver license presents a valid driver license from another state, province of Canada, or the United States Armed Forces when applying for a Florida driver license of equal or lesser classification.¹⁴

Current law provides that if a driver license is of a class of licenses issued by another state exclusively to undocumented immigrants who are unable to prove lawful presence in the United States when the license was issued, the driver license, or other permit purporting to authorize the holder to operate a motor vehicle on public roadways, is invalid in this state and does not authorize the holder to operate a

⁶ Art. VIII, s. 1(f), Fla. Const.

⁷ Art. VIII, s. 1(g), Fla. Const.

⁸ Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.

⁹ *See* s. 322.03, F.S.

¹⁰ S. 322.04(1)(c) and (d), F.S.

¹¹ *See* s. 322.08, F.S.

¹² S. 322.08(2)(c), F.S.

¹³ S. 322.08(2)(c)8., F.S.

¹⁴ S. 322.12, F.S.

motor vehicle in this state.¹⁵ Such classes of licenses include licenses that are issued exclusively to undocumented immigrants or licenses that are substantially the same as licenses issued to citizens, residents, or those lawfully present in the United States but have markings establishing that the license holder did not exercise the option of providing proof of lawful presence. General law requires a law enforcement officer or other authorized representative of DHSMV who stops a person driving with such an invalid license to issue a citation to the driver for driving without a license in violation of s. 322.03, F.S., which provides that a person convicted of a violation of ch. 322, F.S., is guilty of a second degree misdemeanor, punishable by a fine of up to \$500 or a term of imprisonment of up to 60 days.¹⁶

Driver License Compact and Reciprocity

The Driver License Compact was created to provide uniformity among member jurisdictions when exchanging information with other members on convictions, records, licenses, withdrawals, and other data pertinent to the licensing process.¹⁷ Uniformity helps ease administrative costs and meets the underlying tenet of the agreement that each driver nationwide have only one driver license and one driver control record.

DHSMV is authorized to enter into reciprocal driver license agreements with other jurisdictions within the United States and its territories and possessions and with foreign countries or political entities equivalent to Florida state government within a foreign country.¹⁸ Generally, valid driver licenses issued by any state in the United States are valid when visiting another state. However, exceptions do exist for state-specific laws, such as required driving ages.¹⁹

States Issuing Driver Licenses to Undocumented Immigrants

Currently, 19 states and the District of Columbia have enacted laws to allow undocumented immigrants to obtain driver's licenses.²⁰ These states include, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington. The states issue a license (or a "driving privilege card") if an applicant provides certain documentation, such as a foreign birth certificate, foreign passport, or consular card and evidence of current residency in the state.

Following the Real ID Act, noncompliant cards must have a recognizable feature on their face to distinguish the license from those issued to legal residents. Possession of a Real ID compliant driver license is not federally required for operating a motor vehicle.²¹ The DHS cautions against assuming that possession of a noncompliant card indicates that an individual is undocumented. Individuals may choose to obtain a noncompliant card for reasons unrelated to lawful presence in the United States.

County and Municipal Community ID Cards

Current law prohibits counties and municipalities from providing funds to any person, entity, or organization for the purpose of issuing an identification card or document to a person who does not provide proof of lawful presence in the United States.²²

Prior to the enactment of this prohibition, several local governments had partnered with organizations to offer community ID cards. In 2019 the City of West Palm Beach passed a resolution authorizing the city

¹⁵ S. 322.033, F.S.

¹⁶ See ss. 775.082 or 775.083, F.S.

¹⁷ American Association of Motor Vehicle Administrators, *Driver License Compact*, <https://www.aamva.org/topics/driver-license-compact/#?wst=4a3b89462cc2cff2cbe0c7accde57421> (last visited Jan. 26, 2024).

¹⁸ S. 322.02(4), F.S.

¹⁹ FindLaw, *Driver's Licenses FAQ*, November 27, 2017, <https://www.findlaw.com/traffic/drivers-license-vehicle-info/driver-s-licenses-faq.html> (last visited Mar. 21, 2023).

²⁰ National Conference of State Legislatures, *States Offering Driver's Licenses to Immigrants*, January 16, 2023, <https://www.ncsl.org/immigration/states-offering-drivers-licenses-to-immigrants> (last visited Jan. 26, 2024).

²¹ Department of Homeland Security, *Real ID Frequently Asked Questions for the Public*, <https://www.dhs.gov/archive/real-id-public-faqs> (last visited Jan. 26, 2024).

²² Ss. 125.0156 and 166.246, F.S.

to accept identification cards issued by People Engaged in Active Community Efforts, affiliated with Legal Aid in Palm Beach County.²³ The city appropriated \$40,000 to the program to issue identification cards to those without access to other forms of identification, including undocumented immigrants. Cards are issued under this program for a fee of \$20.

On January 31, 2023, the Board of County Commissioners for Miami-Dade County adopted a plan to fund \$200,000 to Branches, a non-profit tax preparation entity, to issue county identification cards to those without access to other forms of identification, including individuals who are homeless or who are undocumented immigrants.²⁴

Broward County approved a program for Legal Aid Service of Broward County to issue the Broward Community ID Card for a fee of \$20.²⁵ The card is provided to individuals who can present a particular form of current or expired identification and prove they are a Broward County resident with an address effective within the past three months. The program cautions that the card neither authorizes driving or entitlement to social welfare benefits nor affects the cardholder's immigration status.

The City of Aventura and other municipalities offer resident ID cards that are conditioned on presentation of a government-issued ID like a valid driver's license or passport and proof of residency. Cardholders can access discounted rates at fishing piers, city-owned recreational facilities, reduced pricing on programs and activities, and free entrance to certain events. Cards may require a small fee or may be provided for free and require renewal annually or may be valid for up to three years, depending on the locality.²⁶

Recently, certain private organizations, like the FaithAction International House, in conjunction with local communities, have been issuing community IDs, with the goal of providing ID cards to individuals who may not currently have access to government issued forms of ID, including new immigrants and refugees, homeless and elderly individuals, and those recently returning from jail. According the FaithAction International House webpage, "The FaithAction ID provides card holders with a verifiable form of identification that can be used as a tool by law enforcement, health centers, schools, nonprofits, businesses, and cultural arts organizations to better identify, serve, and protect them."²⁷ FaithAction International House provides that ID card is not a state issued form of identification, which is noted on the back of the card; therefore it cannot be used to vote, does not entitle the cardholder to any social welfare benefits; does not have any impact on an individual's immigration status. Individuals may pay a small fee for the card, or the card may be issued for free, and must attend an ID drive event that provide an orientation on the benefits and limitations of the card.²⁸

Effect of Proposed Changes

The bill prohibits a county or a municipality from accepting as identification any identification card or document that is issued by any person, entity, or organization that knowingly issues identification cards or documents to individuals who are not lawfully present in the United States. This prohibition does not extend to any documentation that is issued by or on behalf of the Federal Government.

²³Chris Gilmore, *New IDs for undocumented immigrants in Palm Beach County*, WPTV West Palm Beach (Jun. 19, 2019), <https://www.wptv.com/news/local-news/immigrants-in-south-florida/new-ids-for-undocumented-immigrants-in-palm-beach-county> (last visited Jan. 26, 2024).

²⁴Lora Korpar, *Florida County to Issue IDs to Undocumented Immigrants Through Third Party*, Newsweek (Feb. 2, 2022), <https://www.newsweek.com/florida-county-issue-ids-undocumented-immigrants-through-third-party-1675585> (last visited Jan. 26, 2024).

²⁵Legal Aid Service of Broward County, *Broward Community ID*, <https://www.browardlegalaid.org/communityid/> (last visited Jan 26, 2024).

²⁶See City of Aventura, *Aventura ID Card*, <https://www.cityofaventura.com/221/Aventura-ID-Card>; City of Delray Beach, *Residency (Activities) Identification Cards*, <https://www.delraybeachfl.gov/government/city-departments/city-clerk/residency-identification-cards>; City of Sunny Isles Beach, *Resident ID Card*, <https://www.sibfl.net/ccs/residentid/>; The Villages, *Resident ID Card Information*, <https://districtgov.org/departments/Community-Service/idCards.aspx> (last visited Jan. 26, 2024).

²⁷FaithAction International House, *FaithAction ID Program and Network*, <https://faithaction.org/faithaction-id-program-and-network/> (last visited Jan. 26, 2024).

²⁸*Id.*

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.0156, F.S., relating to county restrictions on identification documents.
- Section 2: Amends s. 166.246, F.S., relating to municipal restrictions on identification documents.
- Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:
None .

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may result in reduced demand for government services by persons who are not lawfully present in the United States. Additionally, the bill might reduce the potential for fraud based on the use of unofficial identification documents.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.