

**IN THE UNITED STATES DISTRICT COURT**  
**CAMPBELL, in his official capacity as State Attorney First Judicial Circuit of Florida = JAC**  
**for the Second Judicial Circuit of Florida = JOHN**  
**[REDACTED]**

Case No.

a = SUSAN S. LOPE \ , in her official capacity

State Attorney for the Thirteenth Judicial Circuit of Florida; LARRY BASFORD, in his official capacity as State Attorney for the Fourteenth Judicial Circuit of Florida; DAVID A. ARONBERG, in his official capacity as State Attorney for the Fifteenth Judicial Circuit of Florida; DENNIS W. WARD, in his official capacity as State Attorney for Sixteenth Judicial Circuit of Florida; HAROLD F. PRYOR, in his official capacity as the State Attorney for the Seventeenth Judicial Circuit of Florida; PHILIP G. ARCHER, in his official capacity as the State Attorney for the Eighteenth Judicial Circuit of Florida; THOMAS BAKKEDAHL, in his official capacity as the State Attorney for the Nineteenth Judicial Circuit of Florida; and AMIRA D. FOX, as the State Attorney for the Twentieth Judicial Circuit of Florida,

Defendants.

**COMPLAINT FOR INJUNCTIVE RELIEF  
AND DECLARATORY JUDGMENT**



be unable to drive each other to work. Friends may be unable to give each other rides to the grocery store. Churches may be unable to transport members of their congregation to religious events. Section 10 inflicts enormous harm on people's ability to go about their daily lives.

3. Section 10 imposes criminal penalties on a person who transports an immigrant who "entered the United States in violation of law and has not been inspected by the Federal Government since his or her unlawful entry." Ch. 2023-40, § 10, at 11, Laws of Fla. (amending § 787.07(1), Fla. Stat. (2022)). However, many people who entered the country in violation of federal immigration law have since sought or obtained immigration relief or are now otherwise lawfully present within the United States, but may not have been "inspected" in the relevant sense.

4. Section 10 is phrased in a way that could sweep in all manner of immigrants, including people who are lawfully present in the United States or are in the process of seeking lawful immigration status. The statute does not define the term "inspected" and does not explain what it means to be inspected "since" entry.

5. Section 10 includes no exceptions for the persons or entities doing the transporting. All amendments introduced during the 2023 Florida legislative session that would have narrowed vti

with the federal immigration scheme. *See United States v. Alabama*, 691 F.3d 1269, 1288 (11th Cir. 2012); *Georgia Latino All. for Hum. Rts v. Governor of Georgia*

draconian criminal penalties. It fails to provide Floridians with even basic information about what conduct is actually proscribed, and it invites arbitrary and discriminatory enforcement.

10. This action challenges Section 10 to prevent imminent harm that Plaintiffs and other Floridians, including both U.S. citizens and noncitizens, will suffer as the law goes into effect and is implemented. Plaintiffs seek injunctive and declaratory relief to bar such egregious unconstitutional actions from occurring in their communities.

## **II. JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, because this action arises under the U.S. Constitution and laws of the United States, and pursuant to 28 U.S.C. § 1343, because this actio f t28

15. FWAF is a grassroots and community-based farmworker membership organization with nearly 12,000 members.

16. FWAF's mission is to support and build power among farmworker and rural low-income communities. FWAF's programs focus primarily on encouraging farmworkers' civic

inal Activity (“U visa”), and

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staff member time, delaying and, in some instances, preventing staff members from completing other work necessary to the organization.

36. The increase in FWAF staff's time and focus on Section 10 is driven by the needs of FWAF's membership.

37. FWAF lacks the funds to increase its staffing to educate the community on Section 10 and its consequences. FWAF must now divert even more resources to fundraising in an attempt to address this deficit.

38. FWAF anticipates that the community impact of Section 10, including arrests and detentions, will continue to divert FWAF's resources from its core mission of strengthening farmworker communities through its different programs and normal organizing work.

39. Upon information and belief, approximately 100 dues-paying FWAF members and their families left Florida at the end of the harvest season in 2023. FWAF expects that many will not return to Florida due to the risk that Section 10 poses to its members. FWAF will lose many of these members, the dues from those members, and the critical in-kind donations from those members that help run FWAF's programs.

40. Plaintiff **A.M.**, a U.S. citizen, is one of the directors of a nonprofit organization based in southern Georgia. As part of her work for that nonprofit, A.M. transports individuals with various immigration statuses, including individuals who have never had any contact with immigration authorities, in her personal vehicle to see medical specialists across the Georgia/Florida state line to Jacksonville, Florida.

41. A.M. also personally transports individuals to appointments with the United States Citizenship and Immigration Service ("USCIS") for fingerprinting and other services. Some immigrants in her nonprofit's service area are directed to attend USCIS appointments in

Jacksonville, even though they res

has served as a deacon at a local Army base where he assisted the local priest with the celebration of Mass.

47. R.M. is also the founder of a nonprofit organization in Georgia whose mission is to strengthen families in the Hispanic pa

hope to be able to continue to make trips to visit their Georgia-based family members and other close family friends in the future, without fear that C.A. could face felony charges for taking her grandson to visit their family and returning to their home in Florida.

52. Plaintiff **M.M.** is the mother of five children, four of whom are U.S. citizens. M.M. entered the United States lawfully in 2002, with a border crossing card. However, she no longer has lawful immigration status in the United States. She has a pending immigration case before the Miami Immigration Court, in which she is seeking Cancellation of Removal for Non-Lawful Permanent Residents, a form of immigration relief, that is based upon the extreme harm and trauma that her U.S. citizen children would suffer if their mother were to be deported.

53. Plaintiff **D.M.** is the eldest daughter of M.M. She was born in Mexico and brought into the United States when she was approximately 11 months old.

54. D.M. applied to USCIS for DACA on October 26, 2021, and USCIS confirmed the

long

fear that D.M. or M.M.'s immigration history could mean that A.C. would face Florida criminal charges for human smuggling if the family travels out of state and returns to Florida together.

57. Plaintiff **G.D.L.** came to the United States from Mexico in 2007. When he entered the United States, G.D.L. did not have any contact with immigration officials, and he has not had contact with immigration authorities in the approximately 16 years that he has lived in the United States.

58. Plaintiff **M.G.** is married to Plaintiff G.D.L. She first came to United States from Mexico in 2007 when she was 15 years old. At that time, she was stopped at the border by Customs and Border Protection officers a

61. Defendant **Ashley Moody**

Circuits of Florida, respectively. They are the prosecuting officers of all trial courts in their respective circuits. Fla. Const. Art. V, § 17.

#### IV. FACTS

##### A. History and Intent of SB 1718

64. On May 2, 2023, the Florida Legislature passed SB 1718, including Section 10, which amends Section 787.07 of Florida Statutes.

65. Defendant Governor Ronald D. DeSantis signed the bill into law on May 10, 2023.

66. Section 10, in its entirety, provides as follows:

- (1) Except as provided in subsections (3), (4), and (5), a person who knowingly and willfully transports into this state an individual whom the person knows, or reasonably should know, has entered the United States in violation of law and has not been inspected by the Federal Government since his or her unlawful entry from another country commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (2) A person commits a separate offense for each individual he or she transports into this state in violation of this section.
- (3) A person who transports a minor into this state in violation of subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) A person who commits five or more separate offenses under this section during a single episode commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (5) (a) A person with a prior conviction under this section who comr 3)

and had not been inspected by the Federal Government since his or her unlawful entry.

- (7) A person who is arrested for a violation of this section must be held in custody until brought before the court for admittance to pretrial release in accordance with chapter 903.

**B. The Comprehensive Federal Immigration System Already Governs Smuggling.**

67. The federal government has exclusive power over the regulation of immigration matters.

68. The U.S. Constitution grants the federal government the power to “establish an uniform Rule of Naturalization,” U.S. Const. Art. I, § 8, cl. 4, and to “regulate Commerce with foreign Nations,” U.S. Const. Art. I, § 8, cl. 3. In addition, the Supreme Court has repeatedly held that the federal government’s power to control immigration is inherent in the nation’s sovereignty.

69. Because immigration policies can implicate foreign relations, the United States has a core, constitutionally protected interest in setting a uniform federal immigration scheme. *Arizona v. United States*, 567 U.S. 387, 395 (2012).

70. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See id.* at 395–96; *see generally*, INA, 8 U.S.C. § 1101 *et seq.*

71. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws.

72. The INA carefully calibrates the nature—criminal or civil—and the degree of penalties applicable to each possible violation of its terms.

73. Specifically, under 8 U.S.C. § 1324(a)(1)–(2), Congress set forth the comprehensive federal framework penalizing the transportation of immigrants who unlawfully enter or remain in the United States, thus preempting anyanyU ; Mr

74. The federal scheme specifically addresses which conduct is punishable as unlawful

79. For example, the USCIS website directs immigrants residing in at least seventeen<sup>3</sup> counties in South Georgia to report to the USCIS Field Office in Jacksonville, Florida, for certain services, including capturing biometrics for national security purposes, applying for permission to travel outside the United States, and attending interviews for lawful permanent residence.

**C. In Enacting SB 1718, Florida Made Clear It Was Seeking to Unilaterally Regulate Immigration in the United States.**

80. In enacting SB 1718, Florida legislated in an area committed exclusively to the federal government under the U.S. Constitution and federal statutes. Indeed, by passing Section 10 in particular, Florida expressly intended not only to intrude into an area of exclusive federal control, but to oppose and supplant the federal government in key respects.

81. A primary motivating factor in passing SB 1718 was the Florida Legislature's disagreement with federal immigration policy.

82. The Governor made immigration a clear legislative priority for Florida's 2023 legislative session when he announced his legislative proposal as a response to federal immigration policy: "Florida is a law and order state, and we won't turn a blind eye to the dangers of Biden's Border Crisis. We will continue to take steps to protect Floridians from reckless federal open border policies."<sup>4</sup>

83. Likewise, Senator Blaise Ingoglia, who would go on to sponsor SB 1718, stated that the "Governor will not stand by idly as this open-borders agenda continues to take over our

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<sup>3</sup> At least one zip code in each of the follow Georgia counties is routed to the Jacksonville USCIS Field Office: Atkinson, Appling, Bacon, Brantley, Camden, Clinch, Charlton, Echols, Glynn, Jeff Davis, Lanier, Long, Lowndes, Pierce, Ware, Wayne. See U.S. Citizenship and Immigration Services, *Field Offices*, <https://www.uscis.gov/about-us/find-a-uscis-office/field-offices> (last updated May 17, 2023).

<sup>4</sup> Press Release, Gov. Ron DeSantis, *Governor Ron DeSantis Announces Legislation to Counteract Biden's Border Crisis* (Feb. 23, 2023), <https://www.flgov.com/2023/02/23/governor-ron-desantis-announces-legislation-to-counteract-bidens-border-crisis>.

families, friends and our communities. As a matter of fact, he will boldly push Florida as the blueprint by which other states should fight illegal immigration.”<sup>5</sup>

84. When SB 1718 sponsor Senator Ingoglia introduced SB 1718 he explained that he

away as many of the incentives [to migrate] as possible in the hopes that other states like Texas and Arizona do the same and force the federal government to get off their butt and fix the problem.”<sup>9</sup>

88. Representative Rommel echoed this sentiment, stating “[w]e can’t wait on Washington to do their job. I’m not blaming it on any administration, but we know its broken.”<sup>10</sup> Likewise, Representative Michael stated, “When you talk about immigration reform, because Washington is not doing their job, we, it’s no excuse for us as a state to sit back and do nothing.”<sup>11</sup>

89. Senator Debbie Mayfield questioned whether SB 1718 would fix problems with the immigration system, but still voted in favor of the bill, saying, “I get what people are saying, you know, is this really going to fix the problem? I don’t know. We’re gonna try, but I can tell you what it is doing. It is bringing the attention to the rest of the people in our country that we have a problem, and we need to make sure that Washington knows that we have this problem and we want it fixed.”<sup>12</sup>

90. The sponsors of HB 1617 and SB 1718 provided no useful guidance as to what “inspection” means under Florida law. Rather, the sponsors confused matters even more. For example, when asked about the meaning of the term “inspection” in Section 10, Representative Michael responded, “[W]hen it’s referencing ‘inspected,’ that means that they have been checked in the system whether their immigration status is, whether their immigration status is American or not.”<sup>13</sup>

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<sup>9</sup> Fla. S. Comm. on Fiscal Policy, record of proceedings, at 06:19:50–06:20:03 (Apr. 25, 2023 at 10:00 AM), <https://thefloridachannel.org/videos/4-25-23-senate-committee-on-fiscal-policy-part-2/>.

<sup>10</sup> H. Comm. on Commerce Debate, at 04:47:05–04:47:12.

<sup>11</sup> *Id.* at 04:51:19–04:51:29.

<sup>12</sup> Fla. S., recording of proceedings, at 03:49:47–03:50:08 (Apr. 28, 2023 at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true).

<sup>13</sup> H. Comm. on Commerce Debate, at 02:51:16–02:51:31.

91. Contrary to long-settled law that establishes the federal government's exclusive role in regulating immigration, SB 1718 reflects the view that the State of Florida should regulate immigration unilaterally.

92. All told, the history of SB 1718 in general, and Section 10 in

entry from another country” commits a third- or second-degree felony. Ch. 2023-40, § 10, at 11–12, Laws of Fla. (amending § 787.07(1), (3)–(5)(a), Fla. Stat. (2022)).

97. Section 10 does not define the term “inspected” or “inspected . . . since” entry. Section 10 does not refer to or cite any outside statutes, rules, or regulations for a definition of

crimes—including immigrants who have never had any past contact with immigration authorities—can apply to USCIS for U visas, which grant them lawful presence in the United States based upon their cooperation with law enforcement in the investigation or prosecution of these crimes.<sup>14</sup> Similarly, certain victims of domestic violence may seek lawful status by submitting applications to USCIS pursuant to the Violence Against Women Act.<sup>15</sup> Furthermore, many forms of immigration relief granted by USCIS, including U visas and VAWA status, provide legal pathways for immigrants who have been granted such relief to seek and obtain U.S. citizenship without having been inspected, as that term is typically used in the INA.

103. Accordingly, the plain meaning of Section 10 could criminalize individuals who transport immigrants who initially entered the United States without inspection but who have since been granted lawful status or lawful presence without ever being “inspected,” as that term is typically used in the INA. In fact, it could even lead to the absurd outcome of criminalizing the transport of many immigrants who are now U.S. citizens.

104. The list of immigrants who Section 10 could apply to is vast. In addition to U and T visa holders and VAWA beneficiaries, it could apply to children who are beneficiaries of SIJS, asylees, TPS holders, and DACA recipients, among many other immigrants with lawful status or lawful presence in the United States. Immigrants in each of these categories could have entered the United States unlawfully, but later been granted lawful status or lawful presence without ever being “inspected,” as the term is typically used in the INA. *See Sanchez v. Mayorkas*, 141 S. Ct. 1809, 1810 (2021) (unanimous decision finding a grant of TPS is not an admission and inspection,

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<sup>14</sup> See U.S. Citizenship & Immigration Services, *Victims of Criminal Activity: U Nonimmigrant Status*, <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status> (last updated Mar. 20, 2023).

<sup>15</sup> See U.S. Citizenship & Immigration Services, *Abused Spouses, Children and Parents*, <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents> (last updated Apr. 1, 2022).

and discussing nonimmigrant categories such as the U visa for w

who the federal government has apprehended and released without a notice to appear in immigration court. Indeed, people's immigration situations are fluid, complicated, and varied, but Section 10 leaves people with no idea who is covered and who is not.

109. On its face, Section 10 provides no information about what subsequent immigration history leads a person to be considered "inspected" after an unlawful entry, and federal law likewise fails to provide a clear answer to this question. Once a person knows, or reasonably should



119. Plaintiffs have no plain, speedy, and adequate remedy at law against Section 10 other than the relief requested in this Complaint.

120. As Section 10 takes effect, Plaintiff FWAF's members will be subject to unlawful arrest, prosecution, and harassment.

121. Section 10 violates the Supremacy Clause because Florida law enforcement agencies, officials, and prosecutors will be unilaterally carrying out the functions of federal immigration authorities without federal authorization under the INA and in conflict with the federal government.

122. Section 10 will thwart organizational Plaintiff FWAF's mission by forcing it to divert its resources away from its regular programming and organizing in order to assist members navigating travel and employment as a result of the law's implementation. This undermines Plaintiff FWAF's ability to advance pre-existing organizational priorities, programs, and services.

123. Section 10 will further thwart Plaintiff FWAF's mission by deterring their members, including dues-paying members, from participating in membership activities. Many of FWAF's dues-paying members have left and will continue to leave Florida, negatively impacting FWAF's revenue.

124. Plaintiff FWAF individual members' interests that are at stake

## VI. CAUSES OF ACTION

### COUNT I

#### **Fla. Stat. 787.07, as amended by SB 1718, Section 10 Violates the Supremacy Clause of the U.S. Constitution Conflict and Field Preemption Declaratory and Injunctive Relief**

127. Plaintiffs repeat and reallege all paragraphs above and incorporate them by reference as though fully set forth herein.

128. The Supremacy Clause of the U.S. Constitution states: “This Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. Art. VI, cl. 2.

129. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority, or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

130. The federal government has exclusive power over immigration law and policy. Congress has created a comprehensive system of federal laws regulating the transport and harboring of immigrants in the United States. *See generally* INA, 8 U.S.C. § 1101 *et seq*; *Arizona*, 567 U.S. 387 (2012).

131. Section 10 departs from federal immigration law by making it a crime for anyone who “knowingly and willfully transports into” Florida an individual whom the person “knows or reasonably should know has entered the United States in violati

inspected by the Federal Government since his or her unlawful entry from another country.” Ch. 2023-40, § 10, at 11, Laws of Fla. (amending § 787.07(1), Fla. Stat. (2022)).

132. The inability to transport family, friends, and co-workers into Florida for the agricultural growing season without risking a felony charge makes employment limited or unavailable to members of Plaintiff FWAF, including those who may be U.S. citizens.

133. Section 10 makes it a crime for U.S. citizens and noncitizens, including the individual Plaintiffs, to transport certain immigrants into Florida.

134.

141. The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides, in pertinent part, “nor shall any State deprive any person of life, liberty, or property, without due process of law.” U.S. Const. Amend. XIV, § 1.

142. Section 10 deprives persons it subjects to its criminal provisions of due process of law, in violation of the Due Process Clause of the Fourteenth Amendment.

143. Section 10 is impermissibly vague and overbroad.

144. Section 10 is unconstitutionally vague because it fails to provide a person of ordinary intelligence fair notice of what is prohibited, and because it authorizes and encourages arbitrary and discriminatory enforcement.

145. Section 10 is unconstitutionally vague because its use of the phrase “in violation of law and has not been inspected by the Federal Government since his or her unlawful entry” is incoherent or in conflict with the INA.

146. Section 10 is unconstitutionally vague because the term “inspected” is not defined anywhere in SB 1718; nor is this term defined elsewhere in Florida law.

147. Section 10 exposes an individual to second- or third-degree felony charges if that person “knowingly and willfully transports into this state an individual whom the person knows, or reasonably should know, has entered the United States in violation of law and has not been inspected by the Federal Government since his or her unlawful entry from other country.” The Due Process Clause does not permit subjecting any person in the United States to criminal penalties on these terms because they are indeterminate, internally incoherent, or amorphous.

148. Such vague language authorizes and encourages arbitrary and discriminatory enforcement of Section 10 by Defendants against individuals, including members of Plaintiff organization and individual Plaintiffs.

149. Under the vague, indeterminate, internally incoherent, and amorphous phrasing of

Evelyn Wiese (CA Bar No. 338419)\*  
AMERICANS FOR IMMIGRANT JUSTICE

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 17, 2023, I electronically served a true and correct copy of the foregoing on counsel for Defendants via transmission of a Notice of Electronic Filing generated by the Court's CM/ECF system.

By: /s/ Anne Janet Hernandez Anderson  
Anne Janet Hernandez Anderson