

Tab 1	SB 2-C by Gruters (CO-INTRODUCERS) Fine; Identical to H 00001C Immigration
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Tab 2	SB 4-C by Gruters (CO-INTRODUCERS) Fine; Identical to H 00003C Immigration
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Tab 3	SM 6-C by Gruters (CO-INTRODUCERS) Fine; Identical to H 00005C Secretary of Homeland Security
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Hooper, Chair
Senator Rouson, Vice Chair

MEETING DATE: Wednesday, February 12, 2025
TIME: 10:00 a.m.—12:00 noon
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Hooper, Chair; Senator Rouson, Vice Chair; Senators Berman, Brodeur, Burgess, Collins, DiCeglie, Fine, Garcia, Grall, Harrell, Martin, McClain, Pizzo, Polsky, Sharief, Smith, Trumbull, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 2-C Gruters (Identical H 1-C)	Immigration; Providing that certain persons who vote in an election are guilty of a felony; prohibiting the Department of Highway Safety and Motor Vehicles from issuing a driver license or identification card to unauthorized aliens and undocumented immigrants; requiring a state attorney to seek to have the court sentence certain persons as dangerous unauthorized alien offenders; creating the State Board of Immigration Enforcement within the Department of Law Enforcement; creating the State Immigration Enforcement Council within the State Board of Immigration Enforcement for a specified purpose; requiring the Attorney General to initiate judicial proceedings in the name of the state in order to enforce compliance with an immigration detainer issued by a federal immigration agency; creating the Unauthorized Alien Transport Program within the Division of Emergency Management within the Executive Office of the Governor for a specified purpose, etc.	AP 02/12/2025
2	SB 4-C Gruters (Identical H 3-C)	Immigration; Providing criminal penalties for adult unauthorized aliens who knowingly enter or attempt to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers; providing enhanced criminal penalties for second or subsequent convictions; specifying that such aliens are not eligible for any civil citation or other prearrest or postarrest diversion program; providing criminal penalties for an adult unauthorized alien who, after having been denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state, etc.	AP 02/12/2025

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Wednesday, February 12, 2025, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SM 6-C Gruters (Identical HM 5-C)	Secretary of Homeland Security; Urging the United States Department of Homeland Security to provide guidance and training opportunities for 287(g) agreements, etc.	
		AP 02/12/2025	

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 2-C

INTRODUCER: Senator Gruters

SUBJECT: Immigration

DATE: February 11, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stokes	Sadberry	AP	Pre-meeting

I. Summary:

SB 2-C strengthens the state’s approach to illegal immigration by providing coordination within the state and with federal immigration agencies.

State Board of Immigration Enforcement

The bill creates the State Board of Immigration Enforcement (board) within the Florida Department of Law Enforcement (FDLE). The Governor and Cabinet will serve as the agency head of the board, and all board action must be by unanimous vote. The board is the chief immigration enforcement officer and must, in part:

- Serve as a resource for the U.S. Immigration and Customs Enforcement (ICE).
- Coordinate with the Federal Government in matters related to immigration.
- Coordinate with and provide assistance to law enforcement.
- Administer the Local Law Enforcement Immigration Grant Program.
- Annually report on cooperation and coordination between the ICE and law enforcement agencies.
- Report to the Legislature by March 24, 2025, the number of vacant beds available in state correctional institutions and facilities and county detention facilities which can be sublet to the ICE for use as detention beds.

Immigration Enforcement Council

The bill creates the State Board of Immigration Enforcement Council (council) for the purpose of advising the board. The council is composed of eight members. The Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture must each appoint one police chief and the President of the Senate and the Speaker of the House must each appoint two sheriffs. The council must unanimously elect a sheriff from among the council’s membership to serve as chair.

The council must meet by April 1, 2025, and quarterly thereafter. The council must, in part:

- Assist the board.

- Request guidance from the ICE for training opportunities and strategies to further federal 287(g) program participation.
- Advise the board on the efforts of local law enforcement agencies.
- Provide recommendations on financial resources necessary to aid local law enforcement agencies.
- Provide recommendations to enhance information sharing.
- Provide recommendations on strategies to increase the number of available detention beds for use by the ICE.

Local Law Enforcement Immigration Grant Program

The bill creates the Local Law Enforcement Immigration Grant Program within the State Board of Immigration Enforcement to award grants to support local law enforcement agencies in their cooperation and coordination with federal immigration agencies. The board must award any funds specifically appropriated for the program to reimburse expenses or provide bonus payments. The council is directed to make recommendations to the board on other expenses that should be reimbursable and funding criteria for the program.

The bill appropriates \$250 million from nonrecurring general revenue funds for the program.

Enforcing Cooperation with Federal Immigration Authorities

The bill provides that a state entity, local governmental entity, or law enforcement agency, may not prohibit or in any way restrict a law enforcement officer from executing or assisting in the execution of a lawful judicial warrant.

Additionally the term “sanctuary policy” is amended to include any law, policy, practice, procedure, or custom adopted to prohibit or impede a law enforcement agency from:

- Executing a lawful judicial warrant; or
- Participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law.

The bill specifies that any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor, *including potential suspension from office*.

Unauthorized Alien Transport Program

The bill codifies the Unauthorized Alien Transport Program within the Division of Emergency Management (DEM) for the purpose of facilitating the transport of unauthorized aliens, consistent with federal law. The ICE must specifically request assistance from the DEM with transportation of unauthorized aliens under the direct control and supervision of the ICE and must reimburse the state for the actual cost associated with the transportation.

Other Immigration Provisions

The bill makes numerous changes to enhance criminal penalties for offenses committed by unauthorized aliens, provide requirements for driver licenses, and modify eligibility requirements for out-of-state fee waivers.

Criminal Justice Provisions

The bill makes various changes to criminal penalties and pretrial release and detention procedures. These changes include:

- Reclassifying misdemeanor and felony crimes if the defendant is an unauthorized alien;
- Adding transnational crime organizations to the list of organizations that may be a criminal gang.
- Requiring dangerous unauthorized alien offenders to be sentenced to the maximum penalty for any felony offense.
- Creating a new third degree felony if an unqualified noncitizen votes;
- Creating a new third degree felony for aiding or soliciting an unqualified noncitizen to vote;
- Adding aiding or soliciting an noncitizen to vote to the list of crimes that may constitute racketeering activity; and
- Ranking specified crimes related to unauthorized alien voting.
- Creating a rebuttable presumption that an unauthorized alien is a flight risk for purposes of pretrial release. If an unauthorized alien cannot demonstrate by a preponderance of the evidence that he or she is not a flight risk, he or she must be detained.

The bill requires law enforcement to:

- Comply with an immigration detainer if such a detainer has been placed on a defendant;
- Notify the state attorney of such detainer; and
- Provide a list of all inmates booked into a detention facility upon request by the federal government.

The bill makes changes to exceptions to reporting a person's information to the Federal Government if such person is a witness or victim of a crime. The changes ensure that the crime occurred in the United States and that such witness or victim is necessary to the investigation or prosecution.

Driver License and Motor Vehicle Provisions

The bill clarifies proof of identity requirements for driver licenses and motor vehicle titles and registrations by defining valid passports issued by foreign governments. The bill provides that, for purposes of proof of identity, a driver license from another state must be compliant with the REAL ID Act of 2005. The bill prohibits the issuance of a driver license or identification card to any person who is an unauthorized alien or undocumented immigrant. The bill also requires a person who becomes a U.S. citizen to obtain a replacement driver license within 30 days of becoming a citizen.

Out-of-State Fee Waivers

The bill modifies the eligibility for an out-of-state fee waiver at a public postsecondary institution. Beginning July 1, 2025, a student must be a citizen of the United States or lawfully present in the United States to receive the fee waiver, in addition to other requirements. Public postsecondary institutions must, beginning July 1, 2025, reevaluate all students currently receiving the waiver to determine continued eligibility.

The bill will have a significant fiscal impact. The bill appropriates the sum of \$13,233,593 in recurring funds and the sum of \$285,596,959 in nonrecurring funds from the General Revenue Fund and authorizes a total of 89 full-time equivalent positions. *See Section V., Fiscal Impact Statement.*

Except as otherwise provided by the act, it takes effect upon becoming a law.

II. Present Situation:

Federal Immigration Policy & Background

The Federal Government is responsible for establishing and enforcing immigration laws. Congress has enacted legislation, which the federal courts have interpreted, and the body of immigration law has developed. The responsibility for enforcing immigration laws rests with the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) and its Enforcement and Removal Operations. It is the mission of Enforcement and Removal Operations to identify, apprehend, and remove aliens who are a risk to national security or public safety, enter the country illegally, or seek to undermine the integrity of the country's immigration laws or border control efforts.¹

Immigration Enforcement Encounters

Over the last four federal fiscal years (FFY),² the U.S. Border Patrol and Office of Field Operations has recorded close to 11.5 million enforcement encounters as described in the table below.³ These actions refer to actions involving 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, and individuals who withdraw an application for admission and return to their countries of origin within a short timeframe.”⁴ The total also includes encounters that led to apprehensions or expulsions; apprehensions refer to individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.⁵

¹ United States Immigration and Customs Enforcement, Department of Homeland Security, *Enforcement and Removal Operations, Mission*, available at <https://www.ice.gov/about-ice/ero> (last visited February 9, 2025).

² *Id.* The federal fiscal year is October 1 to September 30 of the next calendar year.

³ United States Customs and Border Protection, Department of Homeland Security, *Total CBP Enforcement Actions*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>. (last visited February 9, 2025).

⁴ *Id.* at note 1.

⁵ *Id.* at notes 1 and 2.

Enforcement	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Total Enforcement Encounters	646,822	1,956,519	2,766,582	3,201,144	2,901,142

In addition to the approximately 11.5 million enforcement encounters, the U.S. Customs and Border Protection has recorded roughly 2 million known “gotaways” since the beginning of FFY 2021, but the actual number of gotaways may be 20 percent greater.⁶ Gotaways are individuals who have evaded detection and attempts at verifying their identities or backgrounds.

Immigration Hearings

Though they may be removed at some point, many inadmissible aliens are released or paroled into the United States after an enforcement encounter. Under federal law, an inadmissible alien is an alien who is generally ineligible to receive a visa or ineligible to be admitted to the United States for specified reasons.⁷ Those released or paroled include hundreds of thousands of inadmissible aliens who have scheduled appointments through the CBP One app.⁸ This app, disabled by the new federal administration on January 20, 2025, was used for scheduling appointments for asylum processing at points of entry along the southwest border.⁹

Many illegal immigrants who are released into the United States are given hearing dates at an immigration court of the U.S. Department of Justice’s Executive Office for Immigration Review.¹⁰ While these courts have experienced a substantial backlog of cases since FFY 2006, the number of pending cases has recently grown to unprecedented levels. Federal fiscal year 2019 registered more than 1 million pending cases for the first time in its history. The total pending cases approached almost 2.5 million at the conclusion of FFY 2023. At the conclusion

⁶ Homeland Security Committee Republicans, United States House of Representatives, *Border Crisis Startling Stats: Fiscal Year 2024 Ends With Nearly 3 Million Inadmissible Encounters Bringing Total Encounters to 10.8 Million Since FY2021*, (September 2024), available at <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>. (last visited February 9, 2025).

⁷ Specified reasons include, in part, that the alien has a communicable disease of public health significance; has a physical or mental disorder and behavior that poses a threat to the property, safety or welfare of the individual or others; has committed acts constituting a crime of moral turpitude; has violated a law related to a controlled substance; has committed two or more criminal offenses for which the aggregate sentences to confinement were 5 years or more; trafficked in controlled substances; has engaged in terrorist activity, is likely to engage in terrorist activity, or has incited terrorist activity; has falsely represented himself or herself to be a citizen of the United States; an alien who has voted illegally. *See* 8 U.S.C. s. 1182 for more details, including exceptions and grounds for waivers. For a more in depth explanation of the various grounds for inadmissibility *see* Abigail F. Kolker and Hillel R. Smith, *Immigration: Grounds of Inadmissibility*, Congressional Research Service (July 29, 2024), available at <https://crsreports.congress.gov/product/pdf/IF/IF12662>. (last visited February 9, 2025).

⁸ Homeland Security Committee Republicans, United States House of Representatives, *Border Crisis Startling Stats: Fiscal Year 2024 Ends With Nearly 3 Million Inadmissible Encounter, Bringing Total Encounters to 10.8 Million Since FY 2021* (September 2024) (explaining that since January 2023, 95.8 percent of 852,000 otherwise inadmissible aliens who scheduled appointments through the CBP One app from January 2023 through September 2023 were ultimately released into the United States on parole), available at <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>. (last visited February 9, 2025).

⁹ United States Customs and Border Protection, Department of Homeland Security, *CBP One Mobile Application*, available at <https://www.cbp.gov/about/mobile-apps-directory/cbpone>. (last visited February 9, 2025).

¹⁰ Holly Straut-Eppsteiner, *Immigration Courts: Decline in New Cases at the End of FY2024*, Congressional Research Service (November 26, 2024), available at <https://crsreports.congress.gov/product/pdf/IN/IN12463>. (last visited February 9, 2025).

of FFY 2024, there were almost 3.6 million pending cases. These immigration hearings often relate to asylum claims that are raised as a defense to removal.¹¹

Attempts to Locate Migrants Who Have Been Released into the Country

The Office of Inspector General (OIG) of the DHS released a report¹² in September 2023 that noted from March 2021 through August 2022, the DHS released more than 1,000,000 migrants into the country.

The DHS is required to obtain an address for each migrant when possible. However, the inspector general's office reviewed 981,671 migrant records and found that addresses for more than 177,000 records, or approximately 18 percent, were missing, were not valid for delivery purposes, or did not contain legitimate residential locations. Of the total number of addresses, 80 percent were reported to have been used at least twice during the 18 month period of the review. Over 780 residential addresses were listed more than 20 times. The report stated that 54,663 records did not contain an address. The report also noted that in an average month, the DHS releases more than 60,000 migrants into the country and it is essential that the post-release addresses be accurate for ICE to be able to locate migrants once they are released.

The OIG made four recommendations for the DHS to implement and thereby improve the ability to locate migrants who have been released. The DHS responded to the recommendations by stating that it did not concur with the OIG's analysis. As a result, the OIG responded that it did not find the DHS' actions to be responsive to the recommendations.

Illegal Immigrant Population Estimates

Current authoritative data on the number of illegal immigrants in the United States or in this state is not available. However, the PEW Research Center estimated that the number of illegal immigrants in the United States was approximately 11 million in 2022.¹³ For Florida, the Center estimated that the population of illegal immigrants grew by 400,000 from 2019 to 2022 to approximately 1.2 million.¹⁴ These estimates of illegal immigrants include those aliens who have temporary protection from deportation. The estimates, however, do not include aliens who have been admitted for lawful residence, persons admitted as refugees, persons granted asylum, and lawful temporary residents such as foreign students and guest workers.

New Executive Orders by President Trump

On his first day in office, President Trump issued the following executive orders relating to the enforcement of federal immigration laws:

¹¹ Holly Straut-Eppsteiner, *Asylum Process in Immigration Courts and Selected Trends*, Congressional Research Service (May 15, 2023), available at <https://crsreports.congress.gov/product/pdf/R/R47504>. (last visited February 9, 2025).

¹² Joseph V. Cuffari, Ph.D., Inspector General, Office of Inspector General, Department of Homeland Security, *DHS Does Not Have Assurance That All Migrants Can be Located Once Released into the United States* (September 6, 2023), available at <https://www.oig.dhs.gov/sites/default/files/assets/2023-09/OIG-23-47-Sep23-Redacted.pdf>. (last visited February 9, 2025).

¹³ Jeffrey S. Passell and Jens Manuel Krogstad, Pew Research Center, *What we know about unauthorized immigrants living in the United States* (July 22, 2024), available at <https://www.pewresearch.org/short-reads/2024/07/22/what-we-know-about-unauthorized-immigrants-living-in-the-us/>. (last visited February 9, 2025).

¹⁴ *Id.*

- *Declaring a National Emergency at the Southern Border of the United States*, ordered the deployment of the Armed Forces, including the Ready Reserve and the National Guard, to obtain complete operational control of the southern border.¹⁵ The order also directed the Secretaries of Defense and Homeland Security to immediately construct additional physical barriers along the southern border.
- *Securing Our Borders*, ordered that the border be secured through various means including federal-state partnerships to enforce federal immigration priorities, detaining and removing aliens apprehended for violations of immigration law, and ending the prior administrations “catch-and-release” practices.¹⁶
- *Realigning the United States Refugee Admissions Program*, ordered that state and local jurisdictions have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions.¹⁷
- *Designating Cartels and other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists*, noted that some violent cartels profit by the trafficking of drugs and humans through Mexico and into the United States in ways that threaten the security and stability of Mexico and the United States.¹⁸ Based on that finding, the order directed the Secretary of State, in consultation with other federal officials, to make recommendations regarding the designation of any cartel or similar organization as a Foreign Terrorist Organization or Specially Designated Global Terrorist.

Immigration Policy in Florida

In recent years, Governor DeSantis and the Legislature have taken action to address the increasing immigration crisis. The Governor has issued the following executive orders:

- September 28, 2021, Executive Order No. 21-223, *Biden Border Crisis*.¹⁹ Finding that the detrimental effects of an unsecured southwest border of the United States would reverberate beyond border states, including increased crime, such as drug trafficking and human trafficking and smuggling, diminished economic opportunities for American workers, and stresses on education and healthcare systems. The order prohibited state agencies from assisting with the transport of aliens apprehended at the southwest border into Florida. Moreover, the order required state agencies to use the federal Systematic Alien Verification for Entitlements program to confirm the eligibility of persons before providing any funds, resources, or other benefits.

¹⁵ Executive Order by President Trump, *Declaring a National Emergency at the Southern Border of the United States* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-emergency-at-the-southern-border-of-the-united-states/>. (last visited February 9, 2025).

¹⁶ Executive Order by President Trump, *Securing Our Borders* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders/>. (last visited February 9, 2025).

¹⁷ Executive Order by President Trump, *Realigning the United States Refugee Admission Program* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/>. (last visited February 9, 2025).

¹⁸ Executive Order by President Trump, *Designating Cartels and other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/>. (last visited February 9, 2025).

¹⁹ See State of Florida, Office of the Governor, *Executive Order No. 21-223* (September 28, 2021), available at https://flgov.com/eog/sites/default/files/executive-orders/2024/EO_21-223.pdf. (last visited February 9, 2025).

- January 6, 2023, Executive Order No. 23-03, *Emergency Management – Illegal Migration*.²⁰ Based on findings of unprecedented interdictions, attempts of entry, and border patrol encounters, the Governor designated the migration of unauthorized aliens to Florida as likely to constitute a major disaster and designated the director of the Division of Emergency Management as the state coordinating officer for the disaster with direction to execute response, recovery, and mitigation plans necessary to cope with the emergency. The order also activates the Florida National Guard, as needed, to assist with the efforts. The order waives contracting policies and requirements, allows for expenditure of state funds through the Emergency Preparedness and Response Fund, and authorizes medical professionals, social workers, and counselors with good and valid licenses issued by other states to provide humanitarian aid services.²¹

The Governor extended the duration of Executive Order No. 23-03 multiple times for the same reason: “the influx of illegal aliens remains unabated and the response from the Biden Administration continues to be inadequate.”²² The order, last extended on December 9, 2024, remains in effect for 60 days following that date.²³

The Legislature responded to the recent increases in illegal immigration most significantly by enacting:

- SB 1808 (2022), expanded the definition of “sanctuary city,” required each law enforcement agency that operates a county detention facility to enter into 287(g) agreements, and prohibited state and local governments from entering into certain contracts.
- SB 1718 (2023), increased criminal penalties for human smuggling and using false identification; required employers use E-Verify; provided that driver licenses issued in other states to persons who do not provide proof of lawful presence in the United States are not valid in this state; required persons in the custody and subject to an immigration detainer to submit a DNA sample; and required the collection of data to aid in the determination of the cost of health care provided to illegal immigrants.
- HB 1589 (2024) increased criminal penalties for repeat offenses of driving without a valid driver license.
- SB 1036 (2024) increased criminal penalties for certain persons who commit a felony after having been convicted of a crime relating to the reentry into the United States, and for committing crimes to further the interests of a transnational crime organization, which is an organization that is routinely involved in trafficking drugs, humans, or weapons.
- HB 1451 (2024) prohibited counties and municipalities from accepting identification cards that are issued by organizations that knowingly issue them to individuals who are not lawfully present in the United States.

²⁰ State of Florida, Office of the Governor, *Executive Order No. 23-03* (January 6, 2023), available at <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO-23-03-1.pdf>. (last visited February 9, 2025).

²¹ *Id.*

²² See State of Florida Office of the Governor, *Executive Order Nos. 23-49, 23-88, 23-134, 23-213, 23-245, 24-35, 24-74, 24-118, 24-173, 24-220, and 24-269*.

²³ State of Florida, Office of the Governor, *Executive Order No. 24-269* (December 9, 2024), available at <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO%2024-269.pdf>. (last visited February 9, 2025).

Cooperation with Federal Immigration Enforcement

Legislation in 2019 created ch. 908, F.S., which, among other things, prohibits state and local government entities from having sanctuary policies.^{24, 25} A sanctuary policy is a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local governmental entity which prohibits or impedes a law enforcement agency from complying with federal immigration laws or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in, or prohibit the agency from:

- Complying with an immigration detainer;
- Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;
- Providing a federal immigration agency access to an inmate for interview;
- Participating in any program or agreement authorized under s. 287 of the Immigration and Nationality Act, [8 U.S.C. s. 1357](#) as required by [s. 908.11](#);
- Providing a federal immigration agency with an inmate's incarceration status or release date; or
- Providing information to a state entity on the immigration status of an inmate or detainee in the custody of the law enforcement agency.²⁶

The act sought to ensure that state and local entities and law enforcement agencies cooperate with Federal Government officials to enforce, and not obstruct, immigration laws. In its most general and broad terms, the law prohibits sanctuary policies and requires law enforcement agencies to support the enforcement of federal immigration law.²⁷ When local law enforcement agencies work with federal immigration officials, aliens who have committed serious crimes are more easily identified and removed.

Each law enforcement agency operating a county detention facility must enter into a written agreement with the ICE to participate in the immigration program established under s. 287(g) of the Immigration and Nationality Act, 8 U.S.C. s. 1357.²⁸ Until the law enforcement agency enters into the written agreement, the agency must notify the Department of Law Enforcement (FDLE) quarterly of the status of such written agreements and any reason for noncompliance if applicable.²⁹

The 287(g) program allows ICE to partner with state and local law enforcement agencies to identify and remove incarcerated criminal aliens who are amenable to removal from the United States before they are released into the community. There are two program models: the Jail

²⁴ Section 908.103, F.S.

²⁵ Chapter 2019-102, L.O.F. The law was challenged in *City of South Miami v. DeSantis*, 408 F.Supp.3d 1266 (S.D. Fla. Sept. 21, 2021). Three provisions were enjoined but severable from the remainder of the law. The case was appealed to the Eleventh Circuit Court of Appeals on October 20, 2021, and the Eleventh Circuit vacated the judgment and remanded to the lower court with instructions to dismiss for lack of jurisdiction. See *City of South Miami v. DeSantis*, 65 F. 4th 631 (11th Cir. 2023).

²⁶ Section 908.102, F.S.

²⁷ See ch. 908, F.S.

²⁸ Section 908.11, F.S. A law enforcement agency is not required to participate in a particular program model.

²⁹ *Id.*

Enforcement Model and the Warrant Service Officer program. The Jail Enforcement Model is designed to identify and process removable aliens who are arrested by state and local law enforcement and have criminal or pending criminal charges. The Warrant Service Officer program allows ICE to train, certify, and authorize state and local law enforcement officers to serve and execute administrative warrants on aliens in their agency's jail.³⁰

Section 908.104, F.S., requires a Florida law enforcement agency to use its best efforts to support the enforcement of federal immigration law. This applies to an official, representative, agent, or employee of the entity or agency only when he or she is acting within the scope of his or her official duties or within the scope of his or her employment.

Except as otherwise prohibited by federal law, a state entity, local governmental entity, or law enforcement agency, or an employee, an agent, or a representative thereof, may not prohibit or restrict a law enforcement agency from taking the following actions regarding a person's immigration status:³¹

- Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency.
- Recording and maintaining the information.
- Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency.
- Using the information to comply with an immigration detainer.
- Using the information to confirm the identity of a person who is detained by a law enforcement agency.
- Sending the applicable information obtained pursuant to enforcement of s. 448.095, F.S., to a federal immigration agency.³²

A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency must:

- Provide to the judge authorized to grant or deny the person's release on bail notice that the person is subject to an immigration detainer.
- Record in the person's case file that the person is subject to an immigration detainer.

³⁰ United States Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, (January 24, 2025), available at <https://www.ice.gov/identify-and-arrest/287g> (last visited February 9, 2025).

³¹ Section 908.104(2), F.S.

³² Section 908.104(2)(a)-(f), F.S.

- Upon determining the detainer is in accordance with s. 908.102(2), F.S.,³³ comply with the requests made in the immigration detainer.^{34, 35}

A judge who receives notice that a person is subject to an immigration detainer must ensure the fact is recorded in the court record, regardless of whether the notice is received before or after a judgement in the case.

In an applicable criminal case,³⁶ when the judge sentences a defendant who is the subject of an immigration detainer to confinement, the judge must issue an order requiring the secure correctional facility³⁷ housing the defendant to reduce the defendant's sentence by no more than 12 days on the determination that the reduction will aid in a seamless transfer of the defendant into federal custody.³⁸ If information regarding an immigration detainer is not available at the time of sentencing, a law enforcement agency must notify the judge who will issue the order as soon as the information becomes available.³⁹

When a county correctional facility or the Department of Corrections (DOC) receives verification from a federal immigration agency that a person in custody is subject to an immigration detainer, the law enforcement agency may transport the person to a federal facility in this state or another point of transfer to federal custody outside the jurisdiction of law enforcement. The agency may not transfer a person earlier than 12 days before his or her release date. A law enforcement agency must obtain judicial authorization before transporting a person to a point of transfer outside of the state.⁴⁰

A state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related to a victim of or a witness to a criminal offense if the victim or witness timely and in good faith responds to the agency's request for

³³ "Immigration detainer" means a facially sufficient written or electronic request issued by a federal immigration agency using that agency's official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. ss. 1226 and 1357 along with the warrant described. An immigration detainer is facially sufficient if the federal immigration agency's official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or if the federal immigration agency's official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that the agency has probable cause and the agency supplies a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law. Section. 908.102(2), F.S.

³⁴ Section 908.105(1)(a)-(c), F.S.

³⁵ Section 908.105(2), F.S., provides that law enforcement agency is not required to notify the judge or record in the person's case file if the person is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed those duties prior to the transfer.

³⁶ "Applicable criminal case" means a criminal case in which the judge requires the defendant to be confined in a secure correctional facility and the judge either indicates in the record under s. 908.105, F.S., that the defendant is subject to an immigration detainer, or otherwise indicates the defendant is subject to a transfer into federal custody.

³⁷ "Secure correctional facility" means a state correctional institution as defined in s. 944.02, F.S., or a county detention facility or a municipal detention facility as defined in s. 951.23, F.S.

³⁸ Section 908.104(3)(b), F.S.

³⁹ Section 908.104(3)(c), F.S.

⁴⁰ Section 908.104(4), F.S.

information and cooperation in the investigation and prosecution of the offense.⁴¹ An agency that withholds information regarding the immigration information of a victim or witness must document cooperation in the investigative records related to the offense and retain the records for at least 10 years.⁴² A law enforcement agency is not authorized to detain an alien unlawfully present in the United States pursuant to an immigration detainer solely because the alien witnessed or reported a crime or was the victim of a criminal offense.⁴³

Additionally, a state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related any alien unlawfully present in the United States if he or she has been a necessary witness or victim of a specified crime.⁴⁴

Any executive or administrative state, county, or municipal officer who violates his or her duties under ch. 908, F.S., relating to federal immigration enforcement, may be subject to action by the Governor in the exercise of his or her authority under the Florida Constitution and state law. The Governor may initiate judicial proceedings in the name of the state to enforce officers' compliance with any duty or to restrain any unauthorized act contrary to ch. 908, F.S.⁴⁵

Additionally, the Attorney General may file a suit against any local governmental entity or local law enforcement agency in a court of competent jurisdiction for declaratory or injunctive relief. The court must enjoin an unlawful sanctuary policy if the local governmental entity or local law enforcement agency violates ch. 908, F.S.⁴⁶ The court has continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceedings. An order approving a consent decree or granting an injunction must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy.⁴⁷

Criminal Laws Related to Illegal Immigration

Voting

In Florida, it is a third degree felony for a person, knowing he or she is not a qualified elector, to willfully vote at any election.⁴⁸

While Florida law does not have any crime specifically related to an unauthorized alien voting in an election, 18 U.S.C. s. 611, provides that it is unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commission, unless:

- The election is held partly for some other purpose;

⁴¹ Section 908.104(5), F.S.

⁴² Section 908.104(6), F.S.

⁴³ Section 908.104(7), F.S.

⁴⁴ Section 908.104(8), F.S., specified crimes include domestic violence, rape, sexual exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping, false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion, and witness tampering.

⁴⁵ Section 908.107(1), F.S.

⁴⁶ Section 908.107(2)-(3), F.S.

⁴⁷ Section 908.107(3)-(4), F.S.

⁴⁸ Section 104.15, F.S.

- Aliens are authorized to vote for such other purpose under a state constitution or local ordinance; and
- Voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

Violation of this section is punishable by a fine and imprisonment for not more than one year.⁴⁹

Florida RICO Act

The “Florida RICO (Racketeer Influenced and Corrupt Organization) Act” is the short title for ss. 895.01-895.06, F.S.⁵⁰ “Racketeering activity” means committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any of a number of offenses listed in the definition.⁵¹ In 2023, the Legislature added the offense of human smuggling to the list of offenses that may constitute racketeering activity.⁵²

Section 895.03, F.S. provides that it is unlawful for any person:

- Who with criminal intent has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt⁵³ to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.⁵⁴
- Through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.
- Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.
- To conspire or endeavor to violate any of the previously described activity.⁵⁵

⁴⁹ 18 U.S.C. s. 611; This section does not apply if each natural parent, or adoptive parent, is or was a citizen; the alien permanently resided in the United States prior to attaining the age of 16; and the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States

⁵⁰ Section 895.01, F.S.

⁵¹ Section 895.02(8), F.S. These offenses include violations of specified Florida laws (e.g., Medicaid fraud, kidnapping, human trafficking, and drug offenses) as well as any conduct defined as “racketeering activity” under 18 U.S.C. s. 1961(1)

⁵² Section 895.02(8)(a)27., F.S.

⁵³ Section 895.02(12), F.S., “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of specified Florida laws (e.g., various gambling offenses) as well as any gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

⁵⁴ Section 895.02(5), F.S., “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal gang as defined in s. 874.03, F.S., constitutes an enterprise.

⁵⁵ Section 895.03(4), F.S.

Section 895.04, F.S., provides that a conviction for engaging in the above activities results in a first degree felony.^{56, 57}

Reclassification of Crimes Committed After Unlawful Reentry

Reclassification occurs when the Legislature *increases the degree of a conviction*. The reclassification attaches at the time the charges are filed.⁵⁸ Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.⁵⁹

In 2024 the Legislature enacted s. 775.0848, F.S., to reclassify the penalty for committing a felony if the person committing such felony has previously been convicted for unlawful reentry by a removed alien pursuant to 8 U.S.C. s. 1326. Section 775.0848, F.S., provides that:

- A felony of the third degree is reclassified to a felony of the second degree.⁶⁰
- A felony of the second degree is reclassified to a felony of the first degree.⁶¹
- A felony of the first degree is reclassified to a life felony.⁶²

According to U.S. Customs and Border Protection the term “criminal noncitizens” refers to individuals who have been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol. In 2024, there were 17,048 arrests of criminal noncitizens, almost 1,800 more arrests than the previous year. Of those arrests, 10,935 are for illegal re-entry after prior deportation.⁶³

Reentry to the United States by aliens⁶⁴ who have been removed from the United States is addressed in 8 U.S.C.A. 1326 as follows:

- Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States...shall be fined under Title 18, or imprisoned not more than 2 years, or both.

⁵⁶ A first-degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

⁵⁷ Section 895.05(2), F.S., in addition to criminal penalties under s. 895.04, F.S., s. 895.05, F.S., imposes civil liability for violations of the Florida RICO Act, including forfeiture to the state of all property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the act

⁵⁸ *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

⁵⁹ *Cf. Spicer v. State*, 615 So.2d 725, 726 (Fla. 2d DCA 1993) (reversing reclassification of robbery with a mask conviction because “[p]enal statutes must be construed in terms of their literal meaning [I]f the legislature had intended section 775.0845 [Florida Statutes (1989)] to reclassify offenses, it would have so stated”).

⁶⁰ A third-degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

⁶¹ A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first-degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

⁶² A first-degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

⁶³ United States Customs and Border Protection, *Criminal Noncitizen Statistics*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics> (last visited February 9, 2025).

⁶⁴ The term “alien” means any person not a citizen or national of the United States. 8 U.S.C.A. 1101(a)(3).

- Any alien whose removal was subsequent to a conviction for the commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony),⁶⁵ such alien shall be fined under Title 18, imprisoned not more than 10 years, or both.
- Any alien whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

The term “removal” includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either federal or state law.⁶⁶

Any alien deported prior to completion of term of imprisonment, and who enters, attempts to enter, or is at any time found in, the United States must be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien is subject to penalties relating to the reentry of deported aliens as provided.⁶⁷

Penalty Enhancements

Penalty enhancements are different than reclassifications and refer to the authority of a judge to impose a *more severe sentence* for a convicted offense when certain factual findings are made.⁶⁸

A good example of a penalty enhancement statute is the habitual felony offender law found in s. 775.084(1)(a), F.S. “Habitual felony offender” means a defendant for whom the court may impose an extended term of imprisonment if it finds that:

- The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.
- The felony for which the defendant is to be sentenced was committed:
 - While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or
 - Within 5 years of the date of the conviction of the defendant’s last prior felony or other qualified offense, or within 5 years of the defendant’s release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.
- The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13, F.S., relating to the purchase or the possession of a controlled substance.
- The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this law.

⁶⁵ “Aggravated felony” is defined in 8 U.S.C.A. 1101(a)(43)(A)-(U). The term applies to a felony offense, whether in violation of Federal or State law, and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. 8 U.S.C.A.1101(a).

⁶⁶ 8 U.S.C.A. 1326(b).

⁶⁷ 8 U.S.C.A. 1326(c).

⁶⁸ *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

- A conviction of a felony or other qualified offense necessary to the operation of this law has not been set aside in any postconviction proceeding.

In a separate proceeding, if the court finds that the defendant meets the criteria for imposing such sanction, the court must sentence the defendant as a habitual felony offender unless the court finds that it is not necessary for the protection of the public. The court may sentence the habitual felony offender as follows:

- In the case of a life felony or a felony of the first degree, for life.
- In the case of a felony of the second degree, for a term of years not exceeding 30.
- In the case of a felony of the third degree, for a term of years not exceeding 10.⁶⁹

Criminal Gangs

As defined in s. 874.03, F.S., “criminal gang” means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including, but not limited to, terrorist organizations and hate groups. Additionally, “criminal gang-related activity” means:

- An activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing or position within a criminal gang;
- An activity in which the participants are identified as criminal gang members or criminal gang associates acting individually or collectively to further any criminal purpose of the gang;
- An activity that is defined as criminal gang activity by a documented reliable informant; or
- An activity that is identified as criminal gang activity by an informant of previously untested reliability and such identification is corroborated by independent information.⁷⁰

Section 874.04, F.S., provides enhanced penalties for gang-related criminal offenses. Upon finding the charged offense was for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the penalty for any felony or misdemeanor may be enhanced to the next degree of offense.⁷¹

Section 874.05, F.S., provides it is a third degree felony for a person who intentionally causes, encourages, solicits, or recruits another person to become a criminal gang member where a condition of membership or continued membership is the commission of any crime.⁷² This section also provides it is a second degree felony for a person who intentionally causes, encourages, solicits, or recruits another person under the age of 13 to become a criminal gang member where a condition of membership or continued membership is the commission of any crime.⁷³ Enhanced penalties are provided for second or subsequent offenses under this section.

⁶⁹ Sections 775.084(1)(a), (3)(a), and (4)(a), F.S.

⁷⁰ Section 874.03(4)(a)-(d), F.S.

⁷¹ Section 874.04, F.S. For purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., such felony offense is ranked as provided in s. 921.022, F.S., or s. 921.0023, F.S., and without regard to the penalty enhancement in this subsection.

⁷² Section 874.05(1), F.S.

⁷³ Section 874.05(2), F.S.

Sentencing

Criminal Punishment Code

The Criminal Punishment Code⁷⁴ is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10). Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates.

Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S. Currently, a felony of the third degree is ranked as a level 1 offense, and a second degree felony is ranked as a level 4 offense.⁷⁵

Types of Felonies

Florida defines the term “forcible felony,” in s. 776.08, F.S. Under this section, forcible felonies include: Treason; Murder; Manslaughter; Sexual battery; Carjacking; Home-invasion robbery; Robbery; Burglary; Arson; Kidnapping; Aggravated assault; Aggravated battery; Aggravated stalking; Aircraft piracy; Unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

Similarly, federal law also groups specific offenses together in what is referred to as an “aggravated felony.” An aggravated felony under 8 U.S.C. s. 1101, includes, in part:

- Murder, rape, or sexual abuse of a minor;⁷⁶
- Illicit trafficking in a controlled substance,⁷⁷ including a drug trafficking crime.^{78, 79}
- Illicit trafficking in firearms or destructive devices⁸⁰ or in explosive materials;⁸¹

⁷⁴ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

⁷⁵ Section 921.0023(1) and (2), F.S.

⁷⁶ 8 U.S.C.A. § 1101(a)(43)(A).

⁷⁷ As defined in section 802 of Title 21, the term “controlled substance” means a drug or other substance, or immediate precursor, included in schedule I, II, IV, or V. The terms does not include distilled spirits, wine, malt beverages, or tobacco. 21 U.S.C.A. § 802(6).

⁷⁸ As defined in section 924(c) of Title 18, the term “drug trafficking crime” means any felony punishable under the Controlled Substances Act, the Controlled Substances Import and Export Act, or chapter 705 of title 46. 18 U.S.C.A. § 924(c)(2).

⁷⁹ 8 U.S.C.A. § 1101(a)(43)(B).

⁸⁰ As defined in section 921 of Title 18, the term “destructive device” means any explosive, incendiary, or poison gas bomb, grenade, rocket having propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the devices described. Additionally, any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into any destructive device described from which a destructible device may be readily assembled. 18 U.S.C.A. § 921(a)(4).

⁸¹ 8 U.S.C.A. § 1101(a)(43)(C).

- An offense described in section 1956 of Title 18 relating to laundering of monetary instruments or section 1957 of that title relating to engaging in monetary transactions in property derived from specific unlawful activity if the amount of the funds exceed \$10,000;⁸²
- Certain offenses related to firearms;⁸³
- Certain crimes of violence;^{84,85}
- Certain theft or burglary offenses;⁸⁶
- Certain offenses relating to child pornography;⁸⁷
- Certain offenses relating to prostitution and human trafficking that;⁸⁸
- Certain offenses relating to alien smuggling;⁸⁹ and
- An offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness.⁹⁰

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after September 30, 1996.⁹¹

Pretrial Detention and Bail

Article I, s. 14 of the Florida Constitution states that “[u]nless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.”

A person must appear before a judge within 24 hours of arrest for a “first appearance.”⁹² During first appearance, a judge advises a defendant of the charges for which he or she was arrested, determines whether there is probable cause that a defendant committed such an offense, and advises a defendant of specified rights.⁹³ If a judge determines that probable cause exists, the judge then determines whether a defendant is entitled to pretrial release. A judge may grant

⁸² 8 U.S.C.A. § 1101(a)(43)(D).

⁸³ 8 U.S.C.A. § 1101(a)(43)(E).

⁸⁴ As defined in section 16 of Title 18, the term “crime of violence” means an offense that has an element the use, attempted use, or threatened use of physical force against the person or property of another; or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. 18 U.S.C.A. § 16.

⁸⁵ 8 U.S.C.A. § 1101(a)(43)(F).

⁸⁶ 8 U.S.C.A. § 1101(a)(43)(G).

⁸⁷ 8 U.S.C.A. § 1101(a)(43)(I).

⁸⁸ 8 U.S.C.A. § 1101(a)(43)(K).

⁸⁹ 8 U.S.C.A. § 1101(a)(43)(N).

⁹⁰ 8 U.S.C.A. § 1101(a)(43)(S).

⁹¹ 8 U.S.C.A. § 1101(a)(43).

⁹² Fla. R. Crim. P. 3.130.

⁹³ *Id.*

pretrial release either by setting a specified bail amount or releasing the defendant on his or her own recognizance.⁹⁴

Section 903.046, F.S., provides that the purpose of bail proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to ensure the safety of the public. When determining whether to release a defendant on bail or other conditions, and what that bail or conditions may be, the court must consider certain factors. Such factors include, in part:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The nature and probability of danger which the defendant's release poses to the community.
- Any other facts the court considers relevant.⁹⁵

While Florida does not specify that the court may consider a defendant's immigration status when setting bail, courts have found that this may be considered in the court's analysis.⁹⁶

Issuance of Driver Licenses and Identification Cards

Section 322.08, F.S., establishes requirements governing the application process for driver licenses and identification cards. All applicants must present primary identification; proof of social security number or secondary identification; and two documents that demonstrate a residential address in Florida. Non-U.S. citizens are required to produce proof of legal presence documentation issued through the U.S. Citizenship and Immigration Services. Noncitizens applying for an original driver license are generally issued a 60-day temporary paper permit without a photo and a receipt. Non-U.S. citizens applying for an identification card are issued a receipt.

Upon the review and verification of identity and legal status by the Department of Highway Safety and Motor Vehicles, and satisfactory completion of required knowledge and skills examinations, a driver license or identification card is issued within 60 days and mailed to the address on the driver record. The driver license or identification card is issued for the period of time specified in the relevant U.S. Citizenship and Immigration Services documentation, up to a maximum of four years. For non-citizens with legal presence the word "TEMPORARY" will appear in red on the front, right lower margin of the driver license or identification card.⁹⁷

Section 322.19, F.S., provides that, with certain exceptions, whenever any person, after applying for or receiving a driver license or identification card, changes his or her legal name, that person must within 30 days obtain a replacement license or card that reflects the change. Similarly, if a person, after applying for or receiving a driver license or identification card, changes the legal

⁹⁴ Fla. R. Crim. P. 3.131.

⁹⁵ Section 903.046, F.S.

⁹⁶ See *United States v. Lozano, United States*, 2009 WL 3052279 (M.D. Ala, 2009).

⁹⁷ Department of Highway Safety and Motor Vehicles, *Frequently Asked Questions: If I am a non-immigrant with legal presence and I want to renew my Class E or Commercial Driver License (CDL), how long will the license be valid and what is the cost?*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/what-to-bring/frequently-asked-questions/>. (last visited February 9, 2025).

residence or mailing address in the application, license, or card, the person must, within 30 days after making the change, obtain a replacement license or card that reflects the change. A violation of this requirement is a non-moving violation, punishable as provided s. 318.18, F.S.

For purposes of documenting proof of lawful presence for the issuance of a driver license or identification card, s. 322.08, F.S., provides that the Department of Highway Safety and Motor Vehicles may require an unexpired foreign passport with an unexpired U.S. visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States. While the term “valid passport” is used in various sections of the Florida Statutes, the term is not currently defined.

Department of Agriculture and Consumer Services

The Commissioner of Agriculture serves as the head of the Department of Agriculture and Consumer Services (DACS), which is created under s. 20.14, F.S. The DACS currently has 12 divisions within the department. Bureaus may be established as deemed necessary.⁹⁸

The office of Agricultural Law Enforcement has certified law enforcement positions in two bureaus: the Bureau of Uniform Services and the Bureau of Investigative Services.⁹⁹ When it comes to protecting Florida agriculture, the Bureau of Uniform Services is the first line of defense at the state borders. The DACS operates 23 interdiction stations on 19 highways going into and out of Florida.¹⁰⁰ Such stations are open 24 hours a day, 365 days a year. Trucks, rental trucks, vans, trailers, and any vehicles carrying agricultural, horticultural, or livestock products.¹⁰¹

Education

Florida’s education system has also been affected by the influx in immigration. Florida schools may provide education to those who are here lawfully, unlawfully, or to children whose parents are here unlawfully.

Florida Public Postsecondary Institutions

Florida’s system of public postsecondary education consists of:

- The State University System (SUS), composed of the 12 state universities.¹⁰² Each state university is administered by a local board of trustees.¹⁰³ The system is supervised by the Board of Governors.¹⁰⁴

⁹⁸ Section 20.14, F.S., Divisions within the DACS include: Administration; Agriculture Environmental Services; Animal Industry; Aquaculture; Consumer Services; Food Safety; Florida Forest Service; Fruit and Vegetables; Licensing.

⁹⁹ The Department of Agriculture and Consumer Services, *About the Office of Agricultural Law Enforcement*, available at <https://www.fdacs.gov/Divisions-Offices/Agricultural-Law-Enforcement/Become-a-Member-of-the-Office-of-Agricultural-Law-Enforcement/About-OALE> (last visited February 9, 2025).

¹⁰⁰ *Id.*

¹⁰¹ The Department of Agriculture and Consumer Services, *Agriculture Inspection stations*, available at <https://www.fdacs.gov/Agriculture-Industry/Agricultural-Inspection-Stations> (last visited February 9, 2025).

¹⁰² Section 1000.21(9), F.S.

¹⁰³ Art. IX, s. 7(b), FLA. CONST.

¹⁰⁴ Art. IX, s. 7(b), FLA. CONST. *See also* s. 1001.705, F.S.

- The Florida College System (FCS), composed of 28 institutions with defined service areas.¹⁰⁵ A local board of trustees governs each FCS institution, and the State Board of Education supervises the system.¹⁰⁶
- Career centers (also called technical colleges), which are a part of a district school system and offer technical courses leading toward a career certificate or industry certification.¹⁰⁷ There are 47 career centers, each governed by its district school board.
- Charter technical career centers, which are public schools or public technical centers operated under a charter granted by a district school board or FCS institution board of trustees.¹⁰⁸ Currently, there is one charter technical career center in Florida—Lake Technical College, chartered under the Lake County School Board.

Residency Status for Tuition Purposes

Students must be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by public postsecondary institutions. Students pay differing tuition rates based on their status as a resident or nonresident of Florida.¹⁰⁹

To qualify as a resident for tuition purposes, a person, or if that person is a dependent child, his or her parent or parents, must have established legal residence in Florida and must have maintained legal residence for at least 12 consecutive months immediately prior to his or her initial enrollment in the public postsecondary institution.¹¹⁰

Each public postsecondary institution must make a residency determination based on the submission of at least two forms of documentation specified in law.¹¹¹

Tuition and Out-of-State Fees

Florida law defines “tuition” as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state. A student who is classified as a resident for tuition purposes qualifies for the in-state tuition rate. An out-of-state fee is the additional fee for instruction charged to a student who does not qualify for the in-state tuition rate,¹¹² unless these costs are exempted or waived.¹¹³

The resident undergraduate tuition rate for the SUS is set at \$105.07 per credit hour.¹¹⁴ The SUS average tuition and out-of-state fee is \$570.01 per credit hour.

¹⁰⁵ Section 1000.21(5), F.S.

¹⁰⁶ Art. IX, S. 8(b), FLA. CONST.

¹⁰⁷ Section 1001.44(a), F.S.

¹⁰⁸ Section 1002.34(a), F.S.

¹⁰⁹ Section 1009.21, F.S.

¹¹⁰ Section 1009.21(2)(a), F.S. This section also specifies other circumstances that may classify a person as a resident for tuition purposes.

¹¹¹ Section 1009.21(3), F.S. Documentation includes, but is not limited to, a Florida voter registration card, Florida driver’s license, Florida vehicle registration, homestead exemption (which is a single, conclusive proof of residency), proof of full-time Florida employment, declaration of domicile, Florida incorporation, lease agreements, or utility bills.

¹¹² Section 1009.01, F.S.

¹¹³ Section 1009.24(2), F.S.

¹¹⁴ Section 1009.24(4)(a), F.S.

The FCS tuition rate for college credit courses is \$71.98 per credit hour, and the out-of-state fee is \$215.94 per credit hour. Baccalaureate degree program resident tuition is \$91.79 per credit hour, and the total tuition and out-of-state fee may not exceed 85 percent of the tuition and out-of-state fee of the nearest state university.¹¹⁵ If a career center offers college credit courses as a part of a career associate degree program, the standard tuition is also \$71.98 per credit hour, and the out-of-state fee is \$215.94 per credit hour.¹¹⁶

For non-college-credit career programs at career centers and FCS institutions, the standard tuition is \$2.33 per contact hour, and the out-of-state fee is \$6.99 per contact hour.¹¹⁷ Each district school board or FCS institution board of trustees may adopt tuition and out-of-state fees that vary no more than 5 percent below or 5 percent above such fees.¹¹⁸

Out-of-State Fee Waiver

In 2014, the Florida Legislature established an out-of-state fee waiver for students, including, but not limited to, students who are undocumented for federal immigration purposes, who meet certain conditions:¹¹⁹

- Attendance in a secondary school in Florida for three consecutive years immediately before graduating from a high school in Florida.
- Application for enrollment in a state university, FCS institution, or technical center within 24 months after high school graduation.
- Submission of an official Florida high school transcript.

The fee waiver may both include students who are undocumented for federal immigration purposes, as well as students who are lawfully present in the United States, but whose parents are not residents of Florida. The exact number of undocumented students receiving the out-of-state fee waiver is unknown.

The out-of-state fee waiver is applicable for 110 percent of the required credit hours of the degree or certificate program for which the student is enrolled.¹²⁰ A student who receives an out-of-state fee waiver is not considered a Florida resident and is not eligible for financial aid awards and tuition assistance grants.¹²¹

The below table shows, for the 2023-2024 fiscal year, the number of students receiving an out-of-state fee waiver from a state university, FCS institution, or career center, and the total value of the waived out-of-state fees. The totals include all non-resident students, regardless of lawful status.

¹¹⁵ Section 1009.23(3), F.S.

¹¹⁶ Section 1009.22(4), F.S.

¹¹⁷ Section 1009.22(3)(c), F.S.

¹¹⁸ Section 1009.22(3)(d), F.S.

¹¹⁹ Section 1009.26(12), F.S.

¹²⁰ Section 1009.26(12)(b), F.S.

¹²¹ The general requirements for student eligibility for state financial aid and tuition assistance in s. 1009.40, F.S., specifies legal residence in Florida. *See also* Board of Governors Regulation 7.008.

Institutions	Number of Students	Total Value of Fee Waiver
State University System ¹²²	2,005	\$20,009,990.00
Florida College System ¹²³	4,573	\$20,649,408.44
District Career Centers ¹²⁴	3	\$12,584.70
Total	6,581	\$40,671,983.14

At least 25 states, including Florida, currently have laws and policies that permit certain students who have attended and graduated from secondary schools in their state to pay in-state tuition at their state’s public postsecondary institutions, regardless of their immigration status.¹²⁵ There are nine states that block access to in-state tuition for undocumented students.¹²⁶

III. Effect of Proposed Changes:

The bill strengthens the state’s approach to illegal immigration by providing coordination within the state and with federal immigration agencies.

State Board of Immigration Enforcement (Section 16)

The bill creates s. 908.1031, F.S., to create the State Board of Immigration Enforcement (board) within the Florida Department of Law Enforcement (FDLE). The Governor and Cabinet serve as the agency head of the board, and all board action must be by unanimous vote. The board is not subject to the control, supervision, or direction of the FDLE in any manner.

The board is the chief immigration enforcement officer and must:

- Serve as a resource for the U.S. Immigration and Customs Enforcement (ICE).
- Coordinate and cooperate with the Federal Government in matters related to immigration.
- Coordinate with and provide assistance to law enforcement related to the enforcement of federal immigration laws and monitor local government compliance with ch. 908, F.S.
- Administer the Local Law Enforcement Immigration Grant Program.
- Collect data related to operations with the ICE from law enforcement agencies and report annually, by December 15, to the Legislature on data collected, the level of coordination and cooperation with the federal government, recommendations for improvement in the coordination and cooperation with the Federal Government, and the number of trained officers under the federal 287(g) program in this state.
- Actively seek Congressional action to amend the National Crime Prevention and Privacy Compact to require party states to share information related to an individual’s immigration status.

¹²² Florida Board of Governors, *Fee Waivers*, available at <https://www.flbog.edu/resources/data-analytics/dashboards/fee-waiver-summary/> (select *Non-Resident (5012)* waiver label) (last visited February 9, 2025).

¹²³ Email, Florida Department of Education (January 24, 2025) (on file with the Committee on Appropriations).

¹²⁴ Email, Florida Department of Education (January 25, 2025) (on file with the Committee on Appropriations).

¹²⁵ National Immigration Law Center, *Basic Facts About In-State Tuition for Undocumented Immigrant Students*, available at <https://www.nilc.org/wp-content/uploads/2024/06/instate-tuition-basicfacts-2024-06-1-1.pdf>. (last visited February 9, 2025).

¹²⁶ Higher ED Immigration Portal, *States*, available at <https://www.higheredimmigrationportal.org/states/> (last visited February 9, 2025).

- Report to the Legislature by March 24, 2025, the number of vacant beds available in state correctional institutions and facilities and county detention facilities which can be sublet to the ICE for use as detention beds.

The board is authorized to adopt necessary rules. The FDLE must provide administrative support to the board.

State Immigration Enforcement Council (Section 17)

The bill creates s. 908.1032, F.S. to create the State Board of Immigration Enforcement Council (council) for the purpose of advising the board. The council is composed of eight members. The Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture must each appoint one police chief. The president of the Senate and the Speaker of the House must each appoint two sheriffs. The State Board of Immigration Enforcement must unanimously elect a sheriff from among the council's membership to serve as chair.

Members must be appointed to terms of four years, and any vacancy must be filled within 2 weeks of such vacancy. To create staggered terms, the initial members appointed by the Cabinet serve 2-year terms. Membership on the council does not disqualify a member from holding any other public office or being employed by a public entity, except that no member of the Legislature can serve on the council. Members of the council must serve without compensation.

The council must meet by April 1, 2025, and quarterly thereafter. The council must:

- Assist the board, upon unanimous request by the board, with issues related to immigration enforcement.
- Recommend to the board expenses related to federal 287(g) program participation that should be reimbursable under the Local Law Enforcement Immigration Grant Program (described below) and funding criteria for the grant program.
- Request guidance from the ICE for training opportunities and strategies to further federal 287(g) program participation and make related recommendations to the board to expand the grant program to reimburse costs related to new training activities.
- Advise the board on the efforts of local law enforcement agencies' efforts related to enforcement of federal immigration laws.
- Provide recommendations on financial and other resources necessary to aid local law enforcement agencies.
- Provide recommendations to enhance information sharing between state entities, local governmental entities, law enforcement agencies, and the Federal Government in the enforcement of federal immigration laws. The recommendations must provide for enhanced use and coordination of the following centers, including but not limited to:
 - The Federal Bureau of Investigation's Terrorist Screening Center.
 - The U.S. Customs and Border Protection's National Targeting Center.
 - The U.S. Department of Homeland Security Fusion Center.
 - The U.S. Drug Enforcement Administration's Special Operations Unit.
- Provide recommendations on strategies to increase the number of available detention beds for use by the ICE.

- Upon unanimous request of the board, assist the board in data collection from law enforcement agencies for the board's annual report.

The FDLE must provide administrative support to the council.

Local Law Enforcement Immigration Grant Program (Sections 18,28)

The bill creates s. 908.1033, F.S., to establish the Local Law Enforcement Immigration Grant Program within the State Board of Immigration Enforcement to award grants to support local law enforcement agencies, which include chief correctional officers operating county detention facilities, in their cooperation and coordination with federal immigration agencies. The board must award any funds specifically appropriated for the program to reimburse expenses or provide bonus payments. The council is directed to make recommendations to the board on other expenses that should be reimbursable and funding criteria for the program.

A local law enforcement agency may apply to the board for reimbursement of expenses incurred in its cooperation and coordination with federal immigration agencies in the enforcement of federal immigration laws. Reimbursements may be requested for the following eligible expenses:

- Subletting detention beds to the ICE.
- Equipment, travel, and lodging related to the federal 287(g) program.
- Training programs, including certified apprenticeship programs, related to supporting the enforcement of federal immigration laws.
- Hardware or software essential to assisting the Federal Government in its enforcement of federal immigration laws.

A local law enforcement agency may apply to the board to provide bonus payments for the agency's local law enforcement officers who participate in U.S. Department of Homeland Security at-large task force operations. The local law enforcement agency may apply for a bonus of up to \$1,000 for each local law enforcement officer, including applicable federal income taxes, employed within that agency. The applying local law enforcement agency must certify that the officer participated in one or more operations and provide any other information required by the board. Eligible participation does not include operations that occur solely at a correctional or detention facility.

The grants must be awarded on a first-come, first-served basis. The total amount of grants awarded may not exceed funding appropriated for the grant program. Upon receiving an application, the executive director of the board must review the application to ensure it is complete, and at least quarterly, make a recommendation to the board for approval or denial of the application.

A grant application recommended for approval by the executive director must be unanimously approved by the board or by the executive director if authorized by the board in rule. Administrative rules adopted by the board may allow for the executive director to approve grants of up to \$25,000 without board approval. Upon approval, the board must submit a 14-day budget amendment to the chair and vice chair of the Legislative Budget Commission before a grant can be issued to a local law enforcement agency. Either the chair or vice chair may object to the

amendment, which voids the action until addressed by the Legislative Budget Commission or the Legislature.

The board must adopt rules to implement this section. The board is granted emergency rulemaking authority to adopt rules to implement this section.

Enforcing Cooperation with Federal Immigration Authorities (Sections 15, 19, 20, 21)

The bill amends s. 908.104, F.S., to provide that a state entity, local governmental entity, or law enforcement agency, may not prohibit or in any way restrict a law enforcement officer from executing or assisting in the execution of a lawful judicial warrant.

Additionally, the bill amends s. 908.102, F.S., to amend the term “sanctuary policy,” to include any law, policy, practice, procedure, or custom adopted to prohibit or impede a law enforcement agency from:

- Executing a lawful judicial warrant; or
- Participating in a federal immigration operation with a federal immigration agency as permitted by federal and state law.

The bill amends s. 908.105, F.S., to provide if any county, district, authority, municipality or other local government adopts an ordinance, a regulation, a rule, or a policy refusing to comply with or otherwise directing local officials, employees, or others to refuse to comply with an immigration detainer issued by a federal agency, the Attorney General must initiate judicial proceedings to enforce compliance. If the court determines that a violation was knowing and willful, the court must assess a civil fine of up to \$5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred.

The bill amends s. 908.107, F.S., to specify that any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor, *including potential suspension from office*.

The bill amends s. 908.11, F.S., to require a sheriff or the chief correctional officer operating a county detention facility to enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the 287(g) program. The board is required to approve the termination of any such agreement. Beginning April 1, 2025, each sheriff or chief correctional officer operating a county detention facility must provide the board with quarterly status updates of such written agreements.

Training with Federal Immigration Authorities (Section 29)

The bill makes legislative findings that the state’s criminal justice training centers as well as facilities of the Department of Military Affairs, such as the Camp Blanding Joint Training Center, are highly qualified and critical strategic year-round assets for training. The Legislature has made significant investments to make Camp Blanding Joint Training Center the premier facility in the southeast. In order to support the anticipated training and operations involving multiple federal and state and local agencies and given the scale and value of this state’s assets,

the Department of Military Affairs and local law enforcement must work with the Office to ensure that the state's federal partners can access and use the state's physical assets in order to further the nation's mission to address illegal immigration. Such activities include outreach to federal partnership as well as entering into agreements for the use of such facilities.

Unauthorized Alien Transport Program (Sections 23, 27)

The bill creates s. 908.13, F.S., to codify the Unauthorized Alien Transport Program within the Division of Emergency Management (DEM) for the purpose of facilitating the transport of unauthorized aliens, consistent with federal law.

The following specified requirements must be met before the DEM may provide transport:

- The ICE must specifically request assistance from the DEM with transporting unauthorized aliens pursuant to specific legal authority.
- The ICE must reimburse the state for the actual cost of assisting with the transport of unauthorized aliens.
- The transportation must be under the direct control and supervision of the ICE.

This section is repealed on June 30, 2027.

The bill repeals Section 1 of ch. 2023-3, Laws of Florida, which contains similar provisions relating to the transport of unauthorized aliens.

Other Immigration Provisions

The bill makes numerous changes to enhance criminal penalties for offenses committed by unauthorized aliens, provides requirements for driver licenses, and modifies eligibility requirements for out-of-state fee waivers.

Criminal Law (Sections 19, 20)

The bill amends s. 908.105, F.S., to provide that a law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency must notify the state attorney that the person is subject to an immigration detainer.

The bill amends s. 908.104, F.S., to provide that a sheriff or chief correctional officer operating a county detention facility must provide, upon request from a federal immigration agency, a list of all inmates booked into a county detention facility and any information regarding each inmate's immigration status.

Additionally, s. 908.104, F.S., is revised to specify that *consistent with all duties created in the state and federal law, state and local law enforcement agencies, and any official responsible for directing or supervising such agencies*, shall use best efforts to support the enforcement of federal immigration law.

Section 908.104, F.S., provides that a state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related to a victim of or a witness to a criminal offense if the victim or witness timely and in good faith

responds to the entity's or agency's request for information and cooperates in the investigation or prosecution of such offense. The bill specifies that such a victim or witness *must be necessary to the investigation or prosecution of such crime, and that such crime must occur in the United States.*

Section 908.104, F.S., provides that a state entity, local governmental entity, or law enforcement agency is not required to provide a federal immigration agency with information related to a necessary witness or victim of specified crimes. The bill specifies that the crime *must occur in the United States, and that documentation must be relied upon to verify that the person was a necessary witness or victim to the crime.*

Criminal Penalties (Sections 1, 9, 10, 11, 12, 24)

The bill creates s. 104.155, F.S., to provide that it is a third degree felony for a person who is not a qualified elector because he or she is noncitizen to willfully vote in any election. A person's ignorance of his or her citizenship status or a person's bona fide belief of his or her citizenship status cannot be raised as a defense in a prosecution.

Any person who aids or solicits another to commit the crime described above with knowledge that such person is noncitizen, commits a third degree felony.

The bill amends s. 895.02, F.S., to add aiding or soliciting a noncitizen alien in voting to the list of crimes that may constitute racketeering activity.

The bill amends s. 921.0022, F.S., to rank the third degree felonies of a noncitizen willfully voting, or aiding or soliciting unauthorized aliens in voting as a level four offense in the offense severity ranking chart.

The bill creates s. 775.0824, F.S., to provide mandatory minimum prison terms for dangerous unauthorized alien offenders. A dangerous unauthorized alien offender is any unauthorized alien¹²⁷ who is a member of a criminal gang, including any member of a transnational crime organization, and who commits or attempts to commit a felony offense in this state.

For an offense committed on or after the effective date of this act, if the state attorney determines that a person is a dangerous unauthorized alien offender, the state attorney must seek to have the court sentence the person as a dangerous unauthorized alien offender.

In a separate proceeding conducted pursuant to this section, upon proof from the state attorney that establishes by a preponderance of the evidence that the person is a dangerous unauthorized alien offender, such person is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- For a life felony, by a term of life imprisonment;
- For a first degree felony, by a term of imprisonment for 30 years;

¹²⁷ "Unauthorized alien" means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U. S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

- For a second degree felony, by a term of imprisonment for 15 years; or
- For a third degree felony, by a term of imprisonment for 5 years.

A person who is sentenced as a dangerous unauthorized alien offender must be released only by expiration of sentence and must not be eligible for parole, control release, or any form of early release. A dangerous unauthorized alien offender must serve 100 percent of his or her court - imposed sentence.

The bill amends s. 775.0848, F.S., to remove the requirement that a person must have previously been convicted of unlawful reentry into the United States, for a new crime to be reclassified to the next higher degree. Under the bill, the penalty for misdemeanor and felony crimes will be reclassified as follows if such crime was committed by an unauthorized alien:

- A second degree misdemeanor is reclassified to a first degree misdemeanor.
- A first degree misdemeanor is reclassified to a third degree felony.
- A third degree felony is reclassified to a second degree felony.
- A second degree felony is reclassified to a first degree felony.
- A first degree felony is reclassified to a life felony.

The bill amends s. 874.03, F.S., to add transnational crime organizations, to the list of groups that may be considered a criminal gang.

A transnational crime organization means any group, network, or association of persons, at least one of which is an unauthorized alien as defined in 8 U.S.C. ss. 1101, that routinely facilitates the international trafficking of drugs, humans, or weapons, or the international smuggling of humans.

Pretrial Release (Section 13, 14)

The bill amends s. 903.046, F.S., to provide that the court must consider a defendant's immigration status when determining whether to release a defendant on bail or other conditions, and what that bail or conditions may be.

The bill amends s. 907.041, F.S., to revise legislative intent that persons posing a substantial flight risk because of their status as unauthorized aliens be detained upon arrest.

An unauthorized alien who is charged with a forcible felony has no presumption in favor of release on nonmonetary condition, and immigration status to the list of circumstances that must be investigated or verified before a person may be released on nonmonetary conditions under the supervision of a pretrial release service.

An unauthorized alien who is arrested for a forcible felony is not eligible for release until he or she appears for a first appearance hearing. The bill creates a rebuttable presumption that the defendant is a flight risk and that no conditions of release will ensure his or her appearance and trial if the court determines there is probable cause to believe the defendant committed a forcible felony and further determines by a preponderance of the evidence that the defendant is an unauthorized alien. If the defendant cannot rebut such presumption, by a preponderance of the evidence, then he or she must be ordered to pretrial detention.

The defendant may request up to a 48-hour continuance of his or her first appearance hearing and the state must be entitled to one continuance for good cause.

Driver License and Motor Vehicle Requirements (Sections 2, 3, 4, 5, 6, 7, 8)

The bill clarifies that proof of identity for the issuance of driver licenses and motor vehicle titles and registrations may include certain valid, unexpired passports. The bill amends ss. 319.001, 320.01, and 322.08, F.S., to create a standard definition for valid passport. Specifically, a “valid passport” is defined to mean:

- An unexpired passport or passport card issued by the U.S. government; or
- An unexpired passport issued by the government of another country with:
 - A stamp or mark affixed by the Federal Government onto the passport to evidence and authorize lawful presence in the United States; or
 - An unexpired I-94, or current permanent resident card, or unexpired immigrant visa, issued by the Federal Government.

The bill amends s. 322.02, F.S., to provide legislative intent that the state meet all minimum security standards of the federal REAL ID Act for the issuance of driver licenses and identification cards.

The bill amends s. 322.033, F.S., to reiterate that the state must meet all minimum security standards of the federal REAL ID Act for driver licenses and identification cards and prohibits the Department of Highway Safety and Motor Vehicles from issuing a driver license or identification card to any person who is an unauthorized alien or undocumented immigrant.

The bill amends s. 322.08, F.S., to stipulate that, for purposes of proof of identity, a driver license record or identification card record from another jurisdiction must comply with the federal REAL ID Act.

The bill also requires a person who becomes a U.S. citizen to obtain a replacement driver license within 30 days of becoming a citizen. The bill amends s. 322.19, F.S., to provide that a person who becomes a citizen of the United States after applying for or receiving a driver license must obtain a replacement license or card that reflects such change within 30 calendar days after making the change. The bill makes a corresponding amendment to s. 322.121, F.S., related to “safe driver” designations on licenses. The bill also updates the time period referenced in that statute from 10 days to 30 days to align with s. 322.19, F.S., which was updated in 2016.¹²⁸

Out-of-State Fee Waivers (Section 25)

The bill amends s. 1009.26, F.S., effective July 1, 2025, to specify that a student must be a citizen of the United States or lawfully present in the United States, in addition to the other conditions, in order to qualify for the out-of-state fee waiver at a Florida public postsecondary institution. Fewer students would therefore be eligible for the waiver, but the exact number of students is unknown.

¹²⁸ Section 60, ch. 2016-239, Laws of Fla.

In addition to new applications for fee waivers that must be evaluated based on the additional criteria in the bill, the bill also requires postsecondary institutions to, beginning July 1, 2025, reevaluate any student who is currently receiving the fee waiver to determine continued eligibility.

Appropriations

The bill appropriates funds to the State Board of Immigration Enforcement within the FDLE for the 2024-2025 fiscal year. The bill appropriates \$680,046 in recurring funds and \$26,781 in nonrecurring funds from the General Revenue Fund and 5 full-time equivalent positions (FTE) with associated salary rate of 325,928 to implement the bill. The bill appropriates \$250 million in nonrecurring funds from the General Revenue Fund for the Local Law Enforcement Immigration Grant Program.

The bill appropriates the sums of \$12,553,547 in recurring funds and \$35,570,178 in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services (DACS) for the 2024-2025 fiscal year to enhance interdiction activities and protect the borders of this state. Additionally, the bill authorizes the DACS to establish 84 FTE with associated salary rate of 5,064,250 to expand law enforcement coverage of interdiction stations and improve border security.

Except as otherwise provided by this act, this act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Equal Protection

The crimes created in the bill and the mandatory sentencing scheme may be subject to future challenges. The crimes and sentencing scheme presented in this bill only apply to unauthorized aliens.

The Fourteenth Amendment to the U.S. Constitution is not confined to the protection of citizens. It says: ‘[n]or shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.’¹²⁹ Because immigration status is not a protected class, it is likely that equal protection challenges to the statutes in the bill will be subject to the lower, rational basis standard. The Court has used a rational basis standard for determining that a state did not establish a sufficient rational basis for denying undocumented children access to public education that the state afforded other residents.¹³⁰

Federal Preemption

The bill may be subject to challenges for encroaching upon federal law. The Court has found that Federal Government’s broad, undoubted power over immigration and alien status rests, in part on its constitutional power to “establish an uniform Rule of Naturalization,” and on its inherent sovereign power to control and conduct foreign relations.¹³¹ Additionally, the Supremacy clause gives Congress the power to preempt state law, either by an express or inferred preemption. State laws are also preempted when they conflict with federal law.¹³² The Court has stated that although “federal law permits state officers to ‘cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States,’ this does not encompass the unilateral decision to detain.”¹³³

Right Pretrial Release

Article I, s. 14 of the Florida Constitution states that “[u]nless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions.

The bill provides that some unauthorized aliens are not entitled to pretrial release. The bill provides a rebuttable presumption that an unauthorized alien is a flight risk, and this may be subject to challenges. However, the bill shifts the burden from the state onto the defendant at a first appearance hearing, not at trial. Generally, rebuttable presumptions in a criminal case that shift the state’s burden to prove an element beyond a reasonable doubt have been found unconstitutional.¹³⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹²⁹ See *Plyer v. Doe*, 457 United States 202 (1982); *Wong Wing v. United States*, 163 United States 228 (1896).

¹³⁰ *Plyer v. Doe*, 457 United States 202 (1982).

¹³¹ *Arizona v. United States*, 567 United States 387 (2012).

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Tatum v. State*, 857 So.2d 331, 336-337 (Fla. 2d DCA 2003).

B. Private Sector Impact:

None.

C. Government Sector Impact:**State Board of Immigration Enforcement**

For the 2024-2025 fiscal year, the bill appropriates the sums of \$680,046 in recurring funds and \$250,026,781 in nonrecurring funds from the General Revenue Fund to the board.

The recurring general revenue funds of \$680,046 must be allocated to the board in the following appropriation categories:

- \$478,235 in Salaries and Benefits;
- \$30,053 in Expenses;
- \$150,000 in Contracted Services;
- \$10,000 in Operating Capital Outlay;
- \$10,000 in Lease/Purchase of Equipment; and
- \$1,758 in Transfer to the Department of Management Services/Statewide Human Resources Contract.

From the nonrecurring general revenue funds, \$26,781 is allocated to the board in the Expenses appropriation category.

The board is authorized to establish 5 FTE with associated salary rate of 325,928 as follows: one executive director, one senior management analyst, two governmental analysts, and one administrative assistant.

Additionally, from the nonrecurring general revenue funds, \$250 million is allocated to the Local Law Enforcement Immigration Grant Program. The unexpended balance of funds remaining on June 30, 2025, shall revert and is appropriated to the board for the 2025-2026 fiscal year for the same purpose.

Department of Agriculture and Consumer Services

For the 2024-2025 fiscal year, the bill appropriates the sums of \$12,553,547 in recurring funds and \$35,570,178 in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services to enhance interdiction activities and protect the borders of this state.

The Agricultural Law Enforcement budget entity is authorized to establish 84 FTE with associated salary rate of 5,064,250, including 57 law enforcement positions and 21 investigators, and from the:

- Recurring funds, \$12,553,547 is appropriated in the following appropriation categories:
 - \$8,574,036 in Salaries and Benefits;

- \$3,449,999 in Expenses;
- \$500,000 in Contracted Services; and
- \$29,512 in Transfer to the Department of Management Services/Statewide Human Resources Contract.
- Nonrecurring funds, \$35,570,178 is appropriated in the following appropriation categories:
 - \$327,754 in Operating Capital Outlay;
 - \$25,000,000 in Fixed Capital Outlay-Facilities Construction and Major Renovations;
 - \$10,029,160 in Acquisition of Motor Vehicles; and
 - \$213,264 in Acquisition of Boats, Motors, and Trailers.

Any unexpended balances of nonrecurring funds appropriated to the Department of Agriculture and Consumer Services that remain as of June 30, 2025, shall revert and are appropriated to the department for the 2025-2026 fiscal year for the same purpose.

Out-of-State Fee Waivers

The bill has an indeterminate, likely significant, revenue impact on state colleges and universities relating to the requirement that out-of-state fee waivers be granted only to students who are citizens of the United States or lawfully present in the United States. The fiscal impact is indeterminate because it is difficult to identify the number of students who would be affected by the changes outlined in the bill. In addition, the revenue impact will also depend on the behavior of affected students. While the cumulative amount of the fee waivers was more than \$40 million in FY 2023-2024, it is not clear that institutions will receive that revenue with the changes to the fee waiver. Some students who are undocumented for federal immigration purposes may choose to pay the out-of-state fee while others may choose to withdraw from school. Therefore, institutions may experience an increase in fee revenue as students pay the out-of-state fees, or experience declines in fee revenue as those students decide to withdraw from school and are not replaced by other students.

Department of Corrections

The DOC may have a positive indeterminate impact on prison beds (unquantifiable increase in prison beds) due to the creation of new crimes and the increase in penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.001, 320.01, 322.02, 322.033, 322.08, 322.121, 322.19, 775.0824, 775.0848, 874.03, 895.02, 903.046, 907.041, 908.102, 908.104, 908.105, 908.107, 908.11, 921.0022, and 1009.26.

This bill creates the following sections of the Florida Statutes: 104.155, 775.0824, 908.1031, 908.1032, 908.1033, and 908.13.

This bill creates eight undesignated sections of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Gruters

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1 A bill to be entitled
 2 An act relating to immigration; creating s. 104.155,
 3 F.S.; providing that certain persons who vote in an
 4 election are guilty of a felony; prohibiting certain
 5 defenses from being raised; providing that a person
 6 who takes certain actions with specified knowledge is
 7 guilty of a felony; amending ss. 319.001 and 320.01,
 8 F.S.; defining the term "valid passport"; amending s.
 9 322.02, F.S.; providing legislative intent; amending
 10 s. 322.033, F.S.; providing legislative intent;
 11 prohibiting the Department of Highway Safety and Motor
 12 Vehicles from issuing a driver license or
 13 identification card to unauthorized aliens and
 14 undocumented immigrants; amending s. 322.08, F.S.;
 15 revising the types of documents that may be used as
 16 proof of identity for certain purposes; amending s.
 17 322.121, F.S.; revising an exception to the
 18 requirements for designation as a "Safe Driver";
 19 amending s. 322.19, F.S.; requiring a person who has
 20 become a citizen of the United States to obtain
 21 specified replacement documents within a certain time;
 22 creating s. 775.0824, F.S.; providing legislative
 23 intent; defining the terms "dangerous unauthorized
 24 alien offender" and "unauthorized alien"; requiring a
 25 state attorney to seek to have the court sentence
 26 certain persons as dangerous unauthorized alien
 27 offenders; providing sentencing requirements;
 28 providing construction; amending s. 775.0848, F.S.;
 29 providing for the reclassification of certain

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30 penalties for offenses committed by an unauthorized
 31 alien; amending s. 874.03, F.S.; revising the
 32 definition of the term "criminal gang"; defining the
 33 term "transnational crime organization"; amending s.
 34 895.02, F.S.; revising the definition of the term
 35 "racketeering activity"; amending s. 903.046, F.S.;
 36 expanding the criteria the court must consider when
 37 making bail determinations; amending s. 907.041, F.S.;
 38 revising legislative intent; revising requirements for
 39 release on nonmonetary conditions; expanding
 40 circumstances a pretrial release service must certify
 41 they have investigated; defining the terms "forcible
 42 felony" and "unauthorized alien"; providing that an
 43 unauthorized alien who is arrested for committing a
 44 forcible felony is not eligible for release under
 45 certain conditions; authorizing a defendant to request
 46 a continuance if certain conditions are met; amending
 47 s. 908.102, F.S.; revising the definition of
 48 "sanctuary policy"; creating s. 908.1031, F.S.;
 49 creating the State Board of Immigration Enforcement
 50 within the Department of Law Enforcement; providing
 51 board membership, powers, and duties; providing
 52 reporting requirements; authorizing the board to adopt
 53 rules; requiring the department to provide
 54 administrative support to the board; creating s.
 55 908.1032, F.S.; creating the State Immigration
 56 Enforcement Council within the State Board of
 57 Immigration Enforcement for a specified purpose;
 58 providing membership and meeting requirements;

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59 providing council duties; requiring the Department of
 60 Law Enforcement to provide administrative support to
 61 the council; creating s. 908.1033, F.S.; creating the
 62 Local Law Enforcement Immigration Grant Program within
 63 the State Board of Immigration Enforcement for a
 64 certain purpose; providing requirements for the
 65 application and awarding of grants; providing for
 66 rulemaking; amending s. 908.104, F.S.; revising
 67 agencies and persons who must use best efforts to
 68 support the enforcement of federal immigration law;
 69 providing that certain entities may not prohibit or
 70 restrict a law enforcement officer from performing
 71 certain actions; requiring specified parties to
 72 provide certain information to a federal immigration
 73 agency; expanding the criteria for receiving a certain
 74 exemption; revising applicability; amending s.
 75 908.105, F.S.; providing additional requirements for
 76 law enforcement agencies that have custody of
 77 specified persons; requiring the Attorney General to
 78 initiate judicial proceedings in the name of the state
 79 in order to enforce compliance with an immigration
 80 detainer issued by a federal immigration agency;
 81 providing penalties; prohibiting public funds from
 82 being used to defend or reimburse certain persons for
 83 specified unlawful conduct; amending s. 908.107, F.S.;
 84 specifying that certain officers are subject to
 85 suspension from office; amending s. 908.11, F.S.;
 86 revising the entities required to enter into certain
 87 agreements with the United States Immigration and

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88 Customs Enforcement; requiring the State Board of
 89 Immigration Enforcement to approve the termination of
 90 an agreement; revising construction; requiring
 91 entities that do not enter into such agreements by a
 92 specified date to take certain actions; creating s.
 93 908.13, F.S.; creating the Unauthorized Alien
 94 Transport Program within the Division of Emergency
 95 Management within the Executive Office of the Governor
 96 for a specified purpose; providing program
 97 requirements; providing for future repeal; amending s.
 98 921.0022, F.S.; ranking an offense created by the act
 99 on the offense severity ranking chart of the Criminal
 100 Punishment Code; amending s. 1009.26, F.S.; revising
 101 eligibility for certain fee waivers; requiring
 102 students receiving such a waiver be reevaluated for
 103 eligibility beginning on a certain date; repealing s.
 104 1 of chapter 2023-3, Laws of Florida, which creates
 105 the Unauthorized Alien Transport Program; authorizing
 106 the State Board of Immigration Enforcement to adopt
 107 certain rules; providing for future expiration;
 108 providing legislative findings; providing
 109 appropriations; authorizing positions; providing a
 110 directive to the Division of Law Revision; providing
 111 effective dates.

113 Be It Enacted by the Legislature of the State of Florida:

114
 115 Section 1. Section 104.155, Florida Statutes, is created to
 116 read:

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117 104.155 Unqualified noncitizen electors willfully voting;
 118 prohibited defenses; aiding or soliciting noncitizen electors in
 119 voting prohibited.-

120 (1) Any person who is not a qualified elector because he or
 121 she is not a citizen of the United States and who willfully
 122 votes in any election is guilty of a felony of the third degree,
 123 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 124 A person's ignorance of his or her citizenship status or a
 125 person's bona fide belief of his or her citizenship status
 126 cannot be raised as a defense in a prosecution for a violation
 127 of this subsection.

128 (2) Any person who aids or solicits another to violate
 129 subsection (1) with knowledge that such person is not a citizen
 130 of the United States is guilty of a felony of the third degree,
 131 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

132 Section 2. Subsection (13) is added to section 319.001,
 133 Florida Statutes, to read:

134 319.001 Definitions.—As used in this chapter, the term:

135 (13) "Valid passport" means:

136 (a) An unexpired passport or passport card issued by the
 137 United States government; or

138 (b) An unexpired passport issued by the government of
 139 another country with:

140 1. A stamp or mark affixed by the Federal Government onto
 141 the passport to evidence and authorize lawful presence in the
 142 United States; or

143 2. An unexpired I-94, or current permanent resident card,
 144 or unexpired immigrant visa, issued by the Federal Government.

145 Section 3. Subsection (46) is added to section 320.01,

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146 Florida Statutes, to read:

147 320.01 Definitions, general.—As used in the Florida
 148 Statutes, except as otherwise provided, the term:

149 (46) "Valid passport" means:

150 (a) An unexpired passport or passport card issued by the
 151 United States government; or

152 (b) An unexpired passport issued by the government of
 153 another country with:

154 1. A stamp or mark affixed by the Federal Government onto
 155 the passport to evidence and authorize lawful presence in the
 156 United States; or

157 2. An unexpired I-94, or current permanent resident card,
 158 or unexpired immigrant visa, issued by the Federal Government.

159 Section 4. Subsection (2) of section 322.02, Florida
 160 Statutes, is amended to read:

161 322.02 Legislative intent; administration.—

162 (2) The Department of Highway Safety and Motor Vehicles is
 163 charged with the administration and function of enforcement of
 164 this chapter and the administration and enforcement of 49 C.F.R.
 165 parts 382-386 and 390-397. The Legislature intends for the state
 166 to meet all minimum security standards of the REAL ID Act of
 167 2005, Public Law No. 109-13, for driver licenses and
 168 identification cards issued by this state. Such action ensures
 169 that all state-issued driver licenses and identification cards
 170 are available to United States citizens and individuals who are
 171 not citizens but who are lawfully present and meet the
 172 requirements of the REAL ID Act.

173 Section 5. Section 322.033, Florida Statutes, is amended to
 174 read:

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175 322.033 Unauthorized aliens and undocumented immigrants;
 176 invalid out-of-state driver licenses.-

177 (1) The Legislature intends for only driver licenses or
 178 identification cards to be issued which meet all minimum
 179 security requirements of the REAL ID Act of 2005, Public Law No.
 180 109-13. The department may not issue a driver license or
 181 identification card to a person who is an unauthorized alien or
 182 undocumented immigrant.

183 (2)(1) If a driver license is of a class of licenses issued
 184 by another state exclusively to unauthorized aliens or
 185 undocumented immigrants who are unable to prove lawful presence
 186 in the United States when the licenses are issued, the driver
 187 license, or other permit purporting to authorize the holder to
 188 operate a motor vehicle on public roadways, is invalid in this
 189 state and does not authorize the holder to operate a motor
 190 vehicle in this state. Such classes of licenses include licenses
 191 that are issued exclusively to unauthorized aliens or
 192 undocumented immigrants or licenses that are substantially the
 193 same as licenses issued to citizens, residents, or those
 194 lawfully present in the United States but have markings
 195 establishing that the license holder did not exercise the option
 196 of providing proof of lawful presence.

197 (3)(2) A law enforcement officer or other authorized
 198 representative of the department who stops a person driving with
 199 an invalid license as described in subsection (2) (1) and
 200 driving without a valid license shall issue a citation to the
 201 driver for driving without a license in violation of s. 322.03.

202 (4)(3) The department, to facilitate the enforcement of
 203 this section and to aid in providing notice to the public and

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204 visitors of invalid licenses, shall maintain on its website a
 205 list of out-of-state classes of driver licenses that are invalid
 206 in this state.

207 Section 6. Paragraph (c) of subsection (2) of section
 208 322.08, Florida Statutes, is amended to read:

209 322.08 Application for license; requirements for license
 210 and identification card forms.-

211 (2) Each such application shall include the following
 212 information regarding the applicant:

213 (c) Proof of identity satisfactory to the department. Such
 214 proof must include one of the following documents issued to the
 215 applicant:

216 1. A driver license record or identification card record
 217 from another jurisdiction which complies with the REAL ID Act of
 218 2005, Public Law No. 109-13, and which ~~that~~ required the
 219 applicant to submit a document for identification which is
 220 substantially similar to a document required under subparagraph
 221 2., subparagraph 3., subparagraph 4., subparagraph 5.,
 222 subparagraph 6., subparagraph 7., or subparagraph 8.;

223 2. A certified copy of a United States birth certificate;

224 3. A valid, unexpired United States passport or passport
 225 card;

226 4. A naturalization certificate issued by the United States
 227 Department of Homeland Security;

228 5. A valid, unexpired alien registration receipt card
 229 (green card);

230 6. A Consular Report of Birth Abroad provided by the United
 231 States Department of State;

232 7. An unexpired employment authorization card issued by the

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233 United States Department of Homeland Security; or
 234 8. Proof of nonimmigrant classification provided by the
 235 United States Department of Homeland Security, for an original
 236 driver license. In order to prove nonimmigrant classification,
 237 an applicant must provide at least one of the following
 238 documents. In addition, the department may require applicants to
 239 produce United States Department of Homeland Security documents
 240 for the sole purpose of establishing the maintenance of, or
 241 efforts to maintain, continuous lawful presence:

242 a. A notice of hearing from an immigration court scheduling
 243 a hearing on any proceeding.

244 b. A notice from the Board of Immigration Appeals
 245 acknowledging pendency of an appeal.

246 c. A notice of the approval of an application for
 247 adjustment of status issued by the United States Citizenship and
 248 Immigration Services.

249 d. An official documentation confirming the filing of a
 250 petition for asylum or refugee status or any other relief issued
 251 by the United States Citizenship and Immigration Services.

252 e. A notice of action transferring any pending matter from
 253 another jurisdiction to this state issued by the United States
 254 Citizenship and Immigration Services.

255 f. An order of an immigration judge or immigration officer
 256 granting relief that authorizes the alien to live and work in
 257 the United States, including, but not limited to, asylum.

258 g. Evidence that an application is pending for adjustment
 259 of status to that of an alien lawfully admitted for permanent
 260 residence in the United States or conditional permanent resident
 261 status in the United States, if a visa number is available

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262 having a current priority date for processing by the United
 263 States Citizenship and Immigration Services.

264 h. ~~On or after January 1, 2010,~~ An unexpired ~~foreign~~
 265 passport issued by the government of another country with:
 266 (I) A stamp or mark affixed by the Federal Government onto
 267 the passport to evidence and authorize lawful presence in the
 268 United States; or
 269 (II) An unexpired United States Visa affixed, accompanied
 270 by an approved I-94, or current permanent resident card, or
 271 unexpired immigrant visa, issued by the Federal Government
 272 documenting the most recent admittance into the United States.
 273

274 A driver license or temporary permit issued based on documents
 275 required in subparagraph 7. or subparagraph 8. is valid for a
 276 period not to exceed the expiration date of the document
 277 presented or 1 year.

278 Section 7. Paragraph (e) of subsection (2) of section
 279 322.121, Florida Statutes, is amended to read:
 280 322.121 Periodic reexamination of all drivers.—
 281 (2) For each licensee whose driving record does not show
 282 any revocations, disqualifications, or suspensions for the
 283 preceding 7 years or any convictions for the preceding 3 years
 284 except for convictions of the following nonmoving violations:
 285 (e) Failure to notify the department of a change of
 286 address, ~~or~~ name, or United States citizenship status within 30
 287 ~~40~~ days pursuant to s. 322.19,
 288
 289 the department shall cause such licensee's license to be
 290 prominently marked with the notation "Safe Driver."

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291 Section 8. Section 322.19, Florida Statutes, is amended to
292 read:

293 322.19 Change of address, ~~or name, or citizenship status.~~-

294 (1) Except as provided in ss. 775.21, 775.261, 943.0435,
295 944.607, and 985.4815, whenever any person, after applying for
296 or receiving a driver license or identification card, changes
297 his or her legal name, that person must within 30 days
298 thereafter obtain a replacement license or card that reflects
299 the change.

300 (2) If a person, after applying for or receiving a driver
301 license or identification card, changes the legal residence or
302 mailing address in the application, license, or card, the person
303 must, within 30 calendar days after making the change, obtain a
304 replacement license or card that reflects the change. A written
305 request to the department must include the old and new addresses
306 and the driver license or identification card number. Any person
307 who has a valid, current student identification card issued by
308 an educational institution in this state is presumed not to have
309 changed his or her legal residence or mailing address. This
310 subsection does not affect any person required to register a
311 permanent or temporary address change pursuant to s. 775.13, s.
312 775.21, s. 775.25, or s. 943.0435.

313 (3) If a person, after applying for or receiving a driver
314 license or identification card, becomes a citizen of the United
315 States, such person must, within 30 calendar days after making
316 the change, obtain a replacement license or card that reflects
317 such change.

318 ~~(4)(3)~~ A violation of this section is a nonmoving violation
319 with a penalty as provided in s. 318.18(2).

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320 ~~(5)(4)~~ Notwithstanding any other provision of this chapter,
321 if a licensee established his or her identity for a driver
322 license using an identification document authorized under s.
323 322.08(2)(c)7. or 8., the licensee may not change his or her
324 name or address except in person and upon submission of an
325 identification document authorized under s. 322.08(2)(c)7. or 8.

326 Section 9. Section 775.0824, Florida Statutes, is created
327 to read:

328 775.0824 Dangerous unauthorized alien offender; legislative
329 intent; definitions; mandatory minimum prison terms.-

330 (1) It is the intent of the Legislature that dangerous
331 unauthorized alien offenders be punished to the fullest extent
332 of the law and as provided in this section.

333 (2) As used in this section, the term:

334 (a) "Dangerous unauthorized alien offender" means an
335 unauthorized alien who is a member of a criminal gang as defined
336 in s. 874.03, and who commits or attempts to commit a felony
337 offense in this state.

338 (b) "Unauthorized alien" has the same meaning as in s.
339 908.111.

340 (3) For an offense committed on or after the effective date
341 of this act, if the state attorney determines that a person is a
342 dangerous unauthorized alien offender, the state attorney shall
343 seek to have the court sentence the person as a dangerous
344 unauthorized alien offender. In a separate proceeding conducted
345 pursuant to this section, upon proof from the state attorney
346 that establishes that the person is a dangerous unauthorized
347 alien offender, such person is not eligible for sentencing under
348 the sentencing guidelines and must be sentenced as follows:

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349 (a) For a felony punishable by life, by a term of life
350 imprisonment.

351 (b) For a felony of the first degree, by a term of
352 imprisonment of 30 years.

353 (c) For a felony of the second degree, by a term of
354 imprisonment of 15 years.

355 (d) For a felony of the third degree, by a term of
356 imprisonment of 5 years.

357 (4) A person sentenced under subsection (3) shall be
358 released only by expiration of sentence and is not eligible for
359 parole, control release, or any form of early release. Any
360 person sentenced under subsection (3) must serve 100 percent of
361 the court-imposed sentence.

362 (5) This section does not prevent a court from imposing a
363 greater sentence of incarceration as authorized by law, pursuant
364 to s. 775.084 or any other provision of law.

365 Section 10. Section 775.0848, Florida Statutes, is amended
366 to read:

367 775.0848 Offenses committed by an unauthorized alien
368 Commission of a felony after unlawful reentry into the United
369 States; reclassification.—The penalty for any misdemeanor or A
370 person who has been previously convicted of a crime relating to
371 the reentry of removed aliens under 8 U.S.C. s. 1326 shall have
372 the penalty for committing a felony committed by an unauthorized
373 alien as defined in s. 908.111 shall be committed after such
374 conviction reclassified in the following manner:

375 (1) A misdemeanor of the second degree is reclassified to a
376 misdemeanor of the first degree.

377 (2) A misdemeanor of the first degree is reclassified to a

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378 felony of the third degree.

379 ~~(3)(1)~~ A felony of the third degree is reclassified to a
380 felony of the second degree.

381 ~~(4)(2)~~ A felony of the second degree is reclassified to a
382 felony of the first degree.

383 ~~(5)(3)~~ A felony of the first degree is reclassified to a
384 life felony.

385 Section 11. Subsection (1) of section 874.03, Florida
386 Statutes, is amended, and subsection (8) is added to that
387 section, to read:

388 874.03 Definitions.—As used in this chapter:

389 (1) "Criminal gang" means a formal or informal ongoing
390 organization, association, or group that has as one of its
391 primary activities the commission of criminal or delinquent
392 acts, and that consists of three or more persons who have a
393 common name or common identifying signs, colors, or symbols,
394 including, but not limited to, terrorist organizations,
395 transnational crime organizations, and hate groups.

396 (a) As used in this subsection, "ongoing" means that the
397 organization was in existence during the time period charged in
398 a petition, information, indictment, or action for civil
399 injunctive relief.

400 (b) As used in this subsection, "primary activities" means
401 that a criminal gang spends a substantial amount of time engaged
402 in such activity, although such activity need not be the only,
403 or even the most important, activity in which the criminal gang
404 engages.

405 (8) "Transnational crime organization" means any group,
406 network, or association of persons, at least one of which is an

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407 unauthorized alien as defined in s. 908.111, that routinely
 408 facilitates the international trafficking of drugs, humans, or
 409 weapons or the international smuggling of humans.

410 Section 12. Subsection (8) of section 895.02, Florida
 411 Statutes, is amended to read:

412 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

413 (8) "Racketeering activity" means to commit, to attempt to
 414 commit, to conspire to commit, or to solicit, coerce, or
 415 intimidate another person to commit:

416 (a) Any crime that is chargeable by petition, indictment,
 417 or information under the following provisions of the Florida
 418 Statutes:

419 1. Section 104.155(2), relating to aiding or soliciting a
 420 noncitizen in voting.

421 2.1- Section 210.18, relating to evasion of payment of
 422 cigarette taxes.

423 3.2- Section 316.1935, relating to fleeing or attempting to
 424 elude a law enforcement officer and aggravated fleeing or
 425 eluding.

426 4.3- Chapter 379, relating to the illegal sale, purchase,
 427 collection, harvest, capture, or possession of wild animal life,
 428 freshwater aquatic life, or marine life, and related crimes.

429 5.4- Section 403.727(3)(b), relating to environmental
 430 control.

431 6.5- Section 409.920 or s. 409.9201, relating to Medicaid
 432 fraud.

433 7.6- Section 414.39, relating to public assistance fraud.

434 8.7- Section 440.105 or s. 440.106, relating to workers'
 435 compensation.

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436 9.8- Section 443.071(4), relating to creation of a
 437 fictitious employer scheme to commit reemployment assistance
 438 fraud.

439 10.9- Section 465.0161, relating to distribution of
 440 medicinal drugs without a permit as an Internet pharmacy.

441 11.10- Section 499.0051, relating to crimes involving
 442 contraband, adulterated, or misbranded drugs.

443 12.11- Part IV of chapter 501, relating to telemarketing.

444 13.12- Chapter 517, relating to sale of securities and
 445 investor protection.

446 14.13- Section 550.235 or s. 550.3551, relating to
 447 dogracing and horseracing.

448 15.14- Chapter 550, relating to jai alai frontons.

449 16.15- Section 551.109, relating to slot machine gaming.

450 17.16- Chapter 552, relating to the manufacture,
 451 distribution, and use of explosives.

452 18.17- Chapter 560, relating to money transmitters, if the
 453 violation is punishable as a felony.

454 19.18- Chapter 562, relating to beverage law enforcement.

455 20.19- Section 624.401, relating to transacting insurance
 456 without a certificate of authority, s. 624.437(4)(c)1., relating
 457 to operating an unauthorized multiple-employer welfare
 458 arrangement, or s. 626.902(1)(b), relating to representing or
 459 aiding an unauthorized insurer.

460 21.20- Section 655.50, relating to reports of currency
 461 transactions, when such violation is punishable as a felony.

462 22.21- Chapter 687, relating to interest and usurious
 463 practices.

464 23.22- Section 721.08, s. 721.09, or s. 721.13, relating to

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465 real estate timeshare plans.
 466 ~~24.23-~~ Section 775.13(5)(b), relating to registration of
 467 persons found to have committed any offense for the purpose of
 468 benefiting, promoting, or furthering the interests of a criminal
 469 gang.
 470 ~~25.24-~~ Section 777.03, relating to commission of crimes by
 471 accessories after the fact.
 472 ~~26.25-~~ Chapter 782, relating to homicide.
 473 ~~27.26-~~ Chapter 784, relating to assault and battery.
 474 ~~28.27-~~ Chapter 787, relating to kidnapping, human
 475 smuggling, or human trafficking.
 476 ~~29.28-~~ Chapter 790, relating to weapons and firearms.
 477 ~~30.29-~~ Chapter 794, relating to sexual battery, but only if
 478 such crime was committed with the intent to benefit, promote, or
 479 further the interests of a criminal gang, or for the purpose of
 480 increasing a criminal gang member's own standing or position
 481 within a criminal gang.
 482 ~~31.30-~~ Former s. 796.03, former s. 796.035, s. 796.04, s.
 483 796.05, or s. 796.07, relating to prostitution.
 484 ~~32.31-~~ Chapter 806, relating to arson and criminal
 485 mischief.
 486 ~~33.32-~~ Chapter 810, relating to burglary and trespass.
 487 ~~34.33-~~ Chapter 812, relating to theft, robbery, and related
 488 crimes.
 489 ~~35.34-~~ Chapter 815, relating to computer-related crimes.
 490 ~~36.35-~~ Chapter 817, relating to fraudulent practices, false
 491 pretenses, fraud generally, credit card crimes, and patient
 492 brokering.
 493 ~~37.36-~~ Chapter 825, relating to abuse, neglect, or

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494 exploitation of an elderly person or disabled adult.
 495 ~~38.37-~~ Section 827.071, relating to commercial sexual
 496 exploitation of children.
 497 ~~39.38-~~ Section 828.122, relating to fighting or baiting
 498 animals.
 499 ~~40.39-~~ Chapter 831, relating to forgery and counterfeiting.
 500 ~~41.40-~~ Chapter 832, relating to issuance of worthless
 501 checks and drafts.
 502 ~~42.41-~~ Section 836.05, relating to extortion.
 503 ~~43.42-~~ Chapter 837, relating to perjury.
 504 ~~44.43-~~ Chapter 838, relating to bribery and misuse of
 505 public office.
 506 ~~45.44-~~ Chapter 843, relating to obstruction of justice.
 507 ~~46.45-~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
 508 or s. 847.07, relating to obscene literature and profanity.
 509 ~~47.46-~~ Chapter 849, relating to gambling, lottery, gambling
 510 or gaming devices, slot machines, or any of the provisions
 511 within that chapter.
 512 ~~48.47-~~ Chapter 874, relating to criminal gangs.
 513 ~~49.48-~~ Chapter 893, relating to drug abuse prevention and
 514 control.
 515 ~~50.49-~~ Chapter 896, relating to offenses related to
 516 financial transactions.
 517 ~~51.50-~~ Sections 914.22 and 914.23, relating to tampering
 518 with or harassing a witness, victim, or informant, and
 519 retaliation against a witness, victim, or informant.
 520 ~~52.51-~~ Sections 918.12 and 918.13, relating to tampering
 521 with jurors and evidence.
 522 Section 13. Paragraph (c) of subsection (2) of section

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523 903.046, Florida Statutes, is amended to read:

524 903.046 Purpose of and criteria for bail determination.—

525 (2) When determining whether to release a defendant on bail
526 or other conditions, and what that bail or those conditions may
527 be, the court shall consider:

528 (c) The defendant's family ties, length of residence in the
529 community, immigration status, employment history, financial
530 resources, and mental condition.

531 Section 14. Subsections (1) and (3) and paragraph (e) of
532 subsection (5) of section 907.041, Florida Statutes, are
533 amended, subsection (6) is added to that section, and paragraph
534 (a) of subsection (5) of that section is republished, to read:

535 907.041 Pretrial detention and release.—

536 (1) LEGISLATIVE INTENT.—It is the policy of this state that
537 persons committing serious criminal offenses, posing a threat to
538 the safety of the community or the integrity of the judicial
539 process, ~~or failing to appear at trial~~, or posing a substantial
540 flight risk because of their status as unauthorized aliens be
541 detained upon arrest. However, persons found to meet specified
542 criteria shall be released under certain conditions until
543 proceedings are concluded and adjudication has been determined.
544 The Legislature finds that this policy of pretrial detention and
545 release will assure the detention of those persons posing a
546 threat to society while reducing the costs for incarceration by
547 releasing, until trial, those persons not considered a danger to
548 the community who meet certain criteria. It is the intent of the
549 Legislature that the primary consideration be the protection of
550 the community from risk of physical harm to persons.

551 (3) RELEASE ON NONMONETARY CONDITIONS.—

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552 (a) It is the intent of the Legislature to create a
553 presumption in favor of release on nonmonetary conditions for
554 any person who is granted pretrial release unless such person is
555 charged with a dangerous crime as defined in subsection (5) or
556 such person is an unauthorized alien charged with a forcible
557 felony as described in subsection (6). ~~A Such~~ person charged
558 with a dangerous crime as defined in subsection (5) shall be
559 released on monetary conditions if it is determined that such
560 monetary conditions are necessary to assure the presence of the
561 person at trial or at other proceedings, to protect the
562 community from risk of physical harm to persons, to assure the
563 presence of the accused at trial, or to assure the integrity of
564 the judicial process.

565 (b) No person shall be released on nonmonetary conditions
566 under the supervision of a pretrial release service, unless the
567 service certifies to the court that it has investigated or
568 otherwise verified:

569 1. The circumstances of the accused's family, employment,
570 financial resources, character, mental condition, immigration
571 status, and length of residence in the community;

572 2. The accused's record of convictions, of appearances at
573 court proceedings, of flight to avoid prosecution, or of failure
574 to appear at court proceedings; and

575 3. Other facts necessary to assist the court in its
576 determination of the indigency of the accused and whether she or
577 he should be released under the supervision of the service.

578 (5) PRETRIAL DETENTION.—

579 (a) As used in this subsection, "dangerous crime" means any
580 of the following:

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- 581 1. Arson;
- 582 2. Aggravated assault;
- 583 3. Aggravated battery;
- 584 4. Illegal use of explosives;
- 585 5. Child abuse or aggravated child abuse;
- 586 6. Abuse of an elderly person or disabled adult, or
- 587 aggravated abuse of an elderly person or disabled adult;
- 588 7. Aircraft piracy;
- 589 8. Kidnapping;
- 590 9. Homicide;
- 591 10. Manslaughter, including DUI manslaughter and BUI
- 592 manslaughter;
- 593 11. Sexual battery;
- 594 12. Robbery;
- 595 13. Carjacking;
- 596 14. Lewd, lascivious, or indecent assault or act upon or in
- 597 presence of a child under the age of 16 years;
- 598 15. Sexual activity with a child, who is 12 years of age or
- 599 older but less than 18 years of age, by or at solicitation of
- 600 person in familial or custodial authority;
- 601 16. Burglary of a dwelling;
- 602 17. Stalking and aggravated stalking;
- 603 18. Act of domestic violence as defined in s. 741.28;
- 604 19. Home invasion robbery;
- 605 20. Act of terrorism as defined in s. 775.30;
- 606 21. Manufacturing any substances in violation of chapter
- 607 893;
- 608 22. Attempting or conspiring to commit any such crime;
- 609 23. Human trafficking;

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- 610 24. Trafficking in any controlled substance described in s.
- 611 893.135(1)(c)4.;
- 612 25. Extortion in violation of s. 836.05; and
- 613 26. Written threats to kill in violation of s. 836.10.
- 614 (e) When a person charged with a crime for which pretrial
- 615 detention could be ordered is arrested, the arresting agency
- 616 shall promptly notify the state attorney of the arrest and shall
- 617 provide the state attorney with such information as the
- 618 arresting agency has obtained relative to:
- 619 1. The nature and circumstances of the offense charged;
- 620 2. The nature of any physical evidence seized and the
- 621 contents of any statements obtained from the defendant or any
- 622 witness;
- 623 3. The defendant's family ties, residence, employment,
- 624 immigration status, financial condition, and mental condition;
- 625 and
- 626 4. The defendant's past conduct and present conduct,
- 627 including any record of convictions, previous flight to avoid
- 628 prosecution, or failure to appear at court proceedings.
- 629 (6)(a) As used in this subsection, the term:
- 630 1. "Forcible felony" has the same meaning as in s. 776.08.
- 631 2. "Unauthorized alien" has the same meaning as in s.
- 632 908.111.
- 633 (b) An unauthorized alien who is arrested for committing a
- 634 forcible felony is not eligible for release until he or she
- 635 appears for a first appearance hearing.
- 636 (c) If, at the first appearance hearing, the court
- 637 determines there is probable cause to believe the defendant
- 638 committed a forcible felony and further determines by a

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639 preponderance of the evidence that the defendant is an
 640 unauthorized alien, the court shall presume that the defendant
 641 presents a substantial flight risk and that no conditions of
 642 release will ensure his or her appearance at trial and shall
 643 order pretrial detention. The defendant may rebut the
 644 presumption by demonstrating, by a preponderance of the
 645 evidence, that appropriate conditions of release will ensure his
 646 or her appearance at trial. If the court determines the
 647 defendant has rebutted the presumption, it must consider the
 648 criteria in s. 903.046, and any other relevant facts, to
 649 determine whether to release the defendant on bail or other
 650 conditions.

651 (d) The defendant may request a continuance of his or her
 652 first appearance hearing conducted under this subsection. A
 653 continuance shall not be longer than 48 hours unless the court
 654 determines there are extenuating circumstances. The state
 655 attorney shall be entitled to one continuance for good cause.
 656 The defendant may not be released from custody pending any such
 657 continuance.

658 Section 15. Paragraphs (e) and (f) of subsection (6) of
 659 section 908.102, Florida Statutes, are amended, and paragraphs
 660 (g) and (h) are added to that subsection, to read:

661 908.102 Definitions.—As used in this chapter, the term:

662 (6) "Sanctuary policy" means a law, policy, practice,
 663 procedure, or custom adopted or allowed by a state entity or
 664 local governmental entity which prohibits or impedes a law
 665 enforcement agency from complying with 8 U.S.C. s. 1373 or which
 666 prohibits or impedes a law enforcement agency from communicating
 667 or cooperating with a federal immigration agency so as to limit

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668 such law enforcement agency in, or prohibit the agency from:
 669 (e) Providing a federal immigration agency with an inmate's
 670 incarceration status or release date; ~~or~~
 671 (f) Providing information to a state entity on the
 672 immigration status of an inmate or detainee in the custody of
 673 the law enforcement agency; ~~or~~
 674 (g) Executing a lawful judicial warrant; or
 675 (h) Participating in a federal immigration operation with a
 676 federal immigration agency as permitted by federal and state
 677 law.

678 Section 16. Section 908.1031, Florida Statutes, is created
 679 to read:

680 908.1031 State Board of Immigration Enforcement; creation;
 681 purpose and duties.—

682 (1) The State Board of Immigration Enforcement is created
 683 within the Department of Law Enforcement, composed of the
 684 Governor and Cabinet, which shall be referred to as the board.
 685 The Governor and Cabinet shall serve as the agency head of the
 686 board. The board shall be a separate budget entity and shall be
 687 exempt from s. 20.052. All board action shall be by unanimous
 688 vote. The board shall not be subject to control, supervision, or
 689 direction of the Department of Law Enforcement in any manner.

690 (2) The board shall appoint an executive director to assist
 691 in the implementation of its responsibilities.

692 (3) The board is the chief immigration enforcement officer
 693 of the state and shall:

694 (a) Serve as a resource for the United States Immigration
 695 and Customs Enforcement.

696 (b) Coordinate and cooperate with the Federal Government in

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697 the enforcement of federal immigration laws and other matters
 698 related to the enforcement of federal immigration laws.

699 (c) Coordinate with and provide assistance to law
 700 enforcement agencies in the enforcement of federal immigration
 701 laws and other matters related to the enforcement of federal
 702 immigration laws, and monitor local government compliance with
 703 the requirements of this chapter.

704 (d) Administer the Local Law Enforcement Immigration Grant
 705 Program established in s. 908.1033.

706 (e) Collect data related to operations with the United
 707 States Immigration and Customs Enforcement from law enforcement
 708 agencies and, by December 15 of each year, submit a report to
 709 the President of the Senate and the Speaker of the House of
 710 Representatives. The report may contain recommendations to the
 711 Legislature to improve the state's cooperation and coordination
 712 with the Federal Government in the enforcement of federal
 713 immigration laws within this state. The report must detail the
 714 number of trained law enforcement officers under the required
 715 agreements in s. 908.11 and the level of cooperation and
 716 coordination between the following entities and federal
 717 immigration agencies:

- 718 1. State entities.
- 719 2. Local governmental entities.
- 720 3. Law enforcement agencies.

721 (f) Actively seek Congressional action to amend the
 722 National Crime Prevention and Privacy Compact to require states
 723 that are a party to the compact to share information relating to
 724 a person's immigration status for criminal justice purposes and
 725 to require that such information be fully shared with all

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726 federal agencies having authority over immigration enforcement.

727 (g) No later than March 24, 2025, report to the President
 728 of the Senate and the Speaker of the House of Representatives
 729 the number of vacant beds available in state correctional
 730 institutions and facilities and county detention facilities
 731 which can be sublet to the United States Immigration and Customs
 732 Enforcement for use as detention beds. Operators of state
 733 correctional institutions and facilities and county detention
 734 facilities shall provide such information requested by the board
 735 no later than March 15, 2025.

736 (4) The State Board of Immigration Enforcement may adopt
 737 rules necessary to implement this section.

738 (5) The Department of Law Enforcement must provide
 739 administrative support to the State Board of Immigration
 740 Enforcement.

741 Section 17. Section 908.1032, Florida Statutes, is created
 742 to read:

743 908.1032 State Immigration Enforcement Council.—The State
 744 Immigration Enforcement Council, an advisory council as defined
 745 in s. 20.03, is created within the State Board of Immigration
 746 Enforcement for the purpose of advising the board.

747 (1) The council must be composed of eight members. The
 748 Governor, Attorney General, Chief Financial Officer, and
 749 Commissioner of Agriculture each must appoint one police chief.
 750 The President of the Senate and the Speaker of the House of
 751 Representatives must each appoint two sheriffs. The State Board
 752 of Immigration Enforcement must unanimously elect a sheriff from
 753 among the council's membership to serve as chair.

754 (2) (a) Members shall be appointed to terms of 4 years. Any

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755 vacancy shall be filled within 2 weeks after such a vacancy by
 756 appointment by the original appointing authority for the
 757 unexpired portion of the term. For the purpose of providing
 758 staggered terms, the initial appointments by the Cabinet shall
 759 be for a term of 2 years.

760 (b) Membership on the council shall not disqualify a member
 761 from holding any other public office or being employed by a
 762 public entity, except that no member of the Legislature shall
 763 serve on the council. The Legislature finds that the council
 764 serves a state, county, and municipal purpose and that service
 765 on the council is consistent with a member's principal service
 766 in a public office or employment.

767 (c) Members of the council shall serve without compensation
 768 but are entitled to reimbursement for per diem and travel
 769 expenses pursuant to s. 112.061.

770 (3) The first meeting of the council shall be held no later
 771 than April 1, 2025. Thereafter, the council must meet quarterly.
 772 Additional meetings may be held at the discretion of the chair.
 773 A majority of members of the council constitute a quorum.
 774 Council meetings may be conducted by teleconference or other
 775 electronic means.

776 (4) The council shall:

777 (a) Assist the State Board of Immigration Enforcement on
 778 issues related to immigration enforcement, provided such
 779 requests are made after unanimous approval of the board.

780 (b) Recommend to the board program participation expenses
 781 related to 287(g) of the Immigration and Nationality Act, 8
 782 U.S.C. s. 1357, which should be reimbursable under the Local Law
 783 Enforcement Immigration Grant Program established in s. 908.1033

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784 and funding criteria for the program.

785 (c) Request guidance from the United States Immigration and
 786 Customs Enforcement for training opportunities and strategies to
 787 further 287(g) of the Immigration and Nationality Act, 8 U.S.C.
 788 s. 1357, program participation in the state and advise the board
 789 on new training activities that could be considered for
 790 reimbursement under the Local Law Enforcement Immigration Grant
 791 Program.

792 (d) Advise the board on the efforts of local law
 793 enforcement agencies related to the enforcement of federal
 794 immigration laws within the state.

795 (e) Provide recommendations on the financial resources
 796 necessary to aid local law enforcement agencies, and any other
 797 resources necessary to facilitate the training of such agencies,
 798 in the cooperation and coordination with the Federal Government
 799 in the enforcement of federal immigration laws.

800 (f) Provide recommendations to enhance information sharing
 801 between state entities, local governmental entities, law
 802 enforcement agencies, and the Federal Government in the
 803 enforcement of federal immigration laws within the state. The
 804 recommendations must provide for enhanced use and coordination
 805 of the following Federal Government centers, including, but not
 806 limited to:

807 1. The Federal Bureau of Investigation's Terrorist
 808 Screening Center.

809 2. The United States Customs and Border Protection's
 810 National Targeting Center.

811 3. The United States Department of Homeland Security Fusion
 812 Centers.

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813 4. The United States Drug Enforcement Administration's
 814 Special Operations Unit.

815 (g) Provide recommendations on strategies to increase the
 816 number of available detention beds for use by the United States
 817 Immigration and Customs Enforcement.

818 (h) Upon unanimous approval of the board, assist in the
 819 collection of data from law enforcement agencies as required
 820 under s. 908.1031(3)(e).

821 (5) The Department of Law Enforcement must provide
 822 administrative support to the State Immigration Enforcement
 823 Council.

824 Section 18. Section 908.1033, Florida Statutes, is created
 825 to read:

826 908.1033 Local Law Enforcement Immigration Grant Program.—

827 (1) The Local Law Enforcement Immigration Grant Program is
 828 created within the State Board of Immigration Enforcement to
 829 award grants to support local law enforcement agencies, which
 830 include chief correctional officers operating county detention
 831 facilities, in their cooperation and coordination with federal
 832 immigration agencies in the enforcement of federal immigration
 833 laws. The board shall award any funds specifically appropriated
 834 for the program to reimburse expenses or issue bonus payments as
 835 provided in this section.

836 (2) A local law enforcement agency may apply to the State
 837 Board of Immigration Enforcement for reimbursement of expenses
 838 incurred in its cooperation and coordination with federal
 839 immigration agencies in the enforcement of federal immigration
 840 laws. Reimbursements may be requested for the following eligible
 841 expenses:

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842 (a) Subletting detention beds to the United States
 843 Immigration and Customs Enforcement.

844 (b) Equipment, travel, and lodging related to 287(g) of the
 845 Immigration and Nationality Act, 8 U.S.C. s. 1357, program.

846 (c) Training programs, including certified apprenticeship
 847 programs, related to supporting the enforcement of federal
 848 immigration laws.

849 (d) Hardware or software essential to assisting the Federal
 850 Government in its enforcement of federal immigration laws.

851 (3)(a) A local law enforcement agency may apply to the
 852 State Board of Immigration Enforcement to provide bonus payments
 853 for the agency's local law enforcement officers who participate
 854 in United States Department of Homeland Security at-large task
 855 force operations. The local law enforcement agency may apply for
 856 a bonus of up to \$1,000 for each local law enforcement officer
 857 employed within that agency. The local law enforcement agency
 858 must certify to the board that the local law enforcement officer
 859 participated in one or more operations and provide any
 860 information required by the board. Eligible participation does
 861 not include operations occurring solely at state correctional
 862 facilities or county detention facilities.

863 (b) The bonus payment shall be adjusted to include 7.65
 864 percent for the officers' share of Federal Insurance
 865 Contribution Act tax on the bonus.

866 (4)(a) Grants shall be awarded on a first-come, first-
 867 served basis based on the date the State Board of Immigration
 868 Enforcement received each completed application. The board shall
 869 establish application procedures and eligibility requirements to
 870 request reimbursement of eligible expenses or to provide bonus

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871 payments, after considering recommendations of the State
 872 Immigration Enforcement Council related to funding criteria.

873 (b) Upon receiving a submitted application, the executive
 874 director of the board shall review the application to ensure
 875 that it is complete. At least quarterly, the executive director
 876 shall complete the review and make a recommendation to the board
 877 for approval or denial of the application.

878 (c) A grant application recommended for approval by the
 879 executive director must be unanimously approved by the board or
 880 by the executive director if authorized by the board in rule.
 881 Upon approval, the board must provide notification in writing to
 882 the chair and vice chair of the Legislative Budget Commission at
 883 least 14 days before a grant may be issued to a local law
 884 enforcement agency under the program. Notwithstanding s.
 885 216.177(2)(b), the chair or vice chair of the Legislative Budget
 886 Commission may timely object in writing, which shall void such
 887 action until the Legislative Budget Commission or the
 888 Legislature addresses the issue.

889 (5) The total amount of grants awarded may not exceed
 890 funding appropriated for the grant program. In order to
 891 efficiently and effectively disburse the funds, the State Board
 892 of Immigration Enforcement may not duplicate benefits and grants
 893 may not be awarded to pay for any activity for which the agency
 894 has received or expects to receive federal or other funding.

895 (6) Local law enforcement agencies shall assist the State
 896 Board of Immigration Enforcement with the collection of any data
 897 necessary to determine bonus payment amounts and to distribute
 898 the bonus payments and shall otherwise provide the board with
 899 any information or assistance needed to fulfill the requirements

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900 of this section.

901 (7) The State Board of Immigration Enforcement shall adopt
 902 rules to implement this section. The rules shall establish
 903 procedures to implement and carry out this section, including a
 904 process for reviewing and taking action on the grant
 905 applications in bulk or as part of a consent calendar. The rules
 906 shall include application requirements and establish supporting
 907 documentation necessary for the board to make decisions. The
 908 rules may allow for the executive director to approve grants of
 909 up to \$25,000 without board approval.

910 Section 19. Subsections (3), (4), and (5) through (8) of
 911 section 908.104, Florida Statutes, are renumbered as subsections
 912 (4), (5), and (7) through (10), respectively, subsection (1) and
 913 present subsections (5), (6), and (8) are amended, and new
 914 subsections (3) and (6) are added to that section, to read:

915 908.104 Cooperation with federal immigration authorities.—
 916 (1) Consistent with all duties created in state and federal
 917 law, state and local law enforcement agencies and any official
 918 responsible for directing or supervising such ~~A law enforcement~~
 919 agency shall use best efforts to support the enforcement of
 920 federal immigration law. This subsection applies to an official,
 921 representative, agent, or employee of the entity or agency only
 922 when he or she is acting within the scope of his or her official
 923 duties or within the scope of his or her employment.

924 (3) A state entity, local governmental entity, or law
 925 enforcement agency, may not prohibit or in any way restrict a
 926 law enforcement officer from executing or assisting in the
 927 execution of a lawful judicial warrant.

928 (6) Upon request from a federal immigration agency, a

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929 sheriff or chief correctional officer operating a county
 930 detention facility must provide the requesting federal
 931 immigration agency a list of all inmates booked into a county
 932 detention facility and any information regarding each inmate's
 933 immigration status.

934 ~~(7)(5)~~ This section does not require a state entity, local
 935 governmental entity, or law enforcement agency to provide a
 936 federal immigration agency with information related to a victim
 937 of or a witness to a criminal offense if:

938 (a) The victim or witness is necessary to the investigation
 939 or prosecution of a crime, and such crime occurred in the United
 940 States; and

941 (b) The victim or witness timely and in good faith responds
 942 to the entity's or agency's request for information and
 943 cooperates ~~cooperation~~ in the investigation or prosecution of
 944 such ~~the~~ offense.

945 ~~(8)(6)~~ A state entity, local governmental entity, or law
 946 enforcement agency that, pursuant to subsection ~~(7) (5)~~,
 947 withholds information regarding the immigration information of a
 948 victim of or witness to a criminal offense shall document the
 949 victim's or witness's cooperation in the entity's or agency's
 950 investigative records related to the offense and shall retain
 951 the records for at least 10 years for the purpose of audit,
 952 verification, or inspection by the Auditor General.

953 ~~(10)(8)~~ This section does not apply to any alien unlawfully
 954 present in the United States if he or she is or has been a
 955 necessary witness or victim of a crime of domestic violence,
 956 rape, sexual exploitation, sexual assault, murder, manslaughter,
 957 assault, battery, human trafficking, kidnapping, false

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958 imprisonment, involuntary servitude, fraud in foreign labor
 959 contracting, blackmail, extortion, or witness tampering,
 960 provided that such crime was committed in the United States.
 961 Documentation, including, but not limited to, police reports,
 962 testimony, sworn statements, or a victim impact statement, must
 963 be relied upon to verify that the person was a necessary witness
 964 or victim to the crime.

965 Section 20. Paragraph (d) is added to subsection (1) of
 966 section 908.105, Florida Statutes, and subsection (4) is added
 967 to that section, to read:

968 908.105 Duties related to immigration detainers.—

969 (1) A law enforcement agency that has custody of a person
 970 subject to an immigration detainer issued by a federal
 971 immigration agency shall:

972 (d) Notify the state attorney that the person is subject to
 973 an immigration detainer.

974 (4)(a) If any county, district, authority, municipality, or
 975 other local government adopts an ordinance, a regulation, a
 976 rule, or a policy refusing to comply with or otherwise directing
 977 local officials, employees, or others to refuse to comply with
 978 an immigration detainer issued by a federal immigration agency,
 979 the Attorney General must initiate judicial proceedings in the
 980 name of the state in order to enforce compliance. The court,
 981 upon finding noncompliance with this subsection, shall declare
 982 invalid the improper ordinance, regulation, rule, or policy and
 983 issue a permanent injunction against the local government
 984 prohibiting it from enforcing such ordinance, regulation, rule,
 985 or policy. It is not a defense that in enacting the ordinance,
 986 regulation, rule, or policy the local government was acting in

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987 good faith or upon advice of counsel.

988 (b) If the court determines that a violation was knowing
 989 and willful, the court must assess a civil fine of up to \$5,000
 990 against the elected or appointed local government official or
 991 officials or administrative agency head under whose jurisdiction
 992 the violation occurred.

993 (c) Except as required by applicable law, public funds may
 994 not be used to defend or reimburse the unlawful conduct of any
 995 person found to have knowingly and willfully violated this
 996 subsection.

997 Section 21. Subsection (1) of section 908.107, Florida
 998 Statutes, is amended to read:

999 908.107 Enforcement.—

1000 (1) Any executive or administrative state, county, or
 1001 municipal officer who violates his or her duties under this
 1002 chapter may be subject to action by the Governor, including
 1003 potential suspension from office, in the exercise of his or her
 1004 authority under the State Constitution and state law. Pursuant
 1005 to s. 1(b), Art. IV of the State Constitution, the Governor may
 1006 initiate judicial proceedings in the name of the state against
 1007 such officers to enforce compliance with any duty under this
 1008 chapter or restrain any unauthorized act contrary to this
 1009 chapter.

1010 Section 22. Section 908.11, Florida Statutes, is amended to
 1011 read:

1012 908.11 Immigration enforcement assistance agreements;
 1013 reporting requirement.—

1014 (1) The sheriff or the chief correctional officer By
 1015 January 1, 2023, each law enforcement agency operating a county

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1016 detention facility must enter into a written agreement with the
 1017 United States Immigration and Customs Enforcement to participate
 1018 in the immigration program established under s. 287(g) of the
 1019 Immigration and Nationality Act, 8 U.S.C. s. 1357. The State
 1020 Board of Immigration Enforcement must approve the termination of
 1021 any such agreement. This subsection does not require a sheriff
 1022 or chief correctional officer operating a county detention
 1023 facility law enforcement agency to participate in a particular
 1024 program model.

1025 (2) Beginning no later than April 1, 2025 ~~October 1, 2022,~~
 1026 and until the sheriff or chief correctional officer operating a
 1027 county detention facility law enforcement agency enters into the
 1028 written agreement required under subsection (1), each sheriff or
 1029 chief correctional officer law enforcement agency operating a
 1030 county detention facility must notify the State Board of
 1031 Immigration Enforcement Department of Law Enforcement quarterly
 1032 of the status of such written agreement and any reason for
 1033 noncompliance with this section, if applicable.

1034 Section 23. Section 908.13, Florida Statutes, is created to
 1035 read:

1036 908.13 Unauthorized Alien Transport Program.—

1037 (1) As used in this section, the term "unauthorized alien"
 1038 has the same meaning as in s. 908.111.

1039 (2) The Unauthorized Alien Transport Program is created
 1040 within the Division of Emergency Management within the Executive
 1041 Office of the Governor for the purpose of facilitating the
 1042 transport of unauthorized aliens, consistent with federal law.
 1043 In order for the division to provide such transport, all of the
 1044 following requirements must be met:

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1045 (a) The United States Immigration and Customs Enforcement
 1046 must specifically request assistance from the division with the
 1047 transport of unauthorized aliens pursuant to specific federal
 1048 legal authority.

1049 (b) The United States Immigration and Customs Enforcement
 1050 must reimburse the state for the actual cost of assisting with
 1051 the transport of unauthorized aliens.

1052 (c) The transport must occur under the direct control and
 1053 supervision of the United States Immigration and Customs
 1054 Enforcement.

1055 (3) The section is repealed June 30, 2027.

1056 Section 24. Paragraph (d) of subsection (3) of section
 1057 921.0022, Florida Statutes, is amended to read:

1058 921.0022 Criminal Punishment Code; offense severity ranking
 1059 chart.-

1060 (3) OFFENSE SEVERITY RANKING CHART

1061 (d) LEVEL 4

1062
 1063

Florida Statute	Felony Degree	Description
<u>104.155</u>	<u>3rd</u>	<u>Unqualified noncitizen electors voting; aiding or soliciting noncitizen electors in voting.</u>
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to

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1066 elude law enforcement officer
 who is in a patrol vehicle with
 siren and lights activated.

499.0051(1) 3rd Failure to maintain or deliver
 transaction history,
 transaction information, or
 transaction statements.

1067 499.0051(5) 2nd Knowing sale or delivery, or
 possession with intent to sell,
 contraband prescription drugs.

1068 517.07(1) 3rd Failure to register securities.

1069 517.12(1) 3rd Failure of dealer or associated
 person of a dealer of
 securities to register.

1070 784.031 3rd Battery by strangulation.

1071 784.07(2)(b) 3rd Battery of law enforcement
 officer, firefighter, etc.

1072 784.074(1)(c) 3rd Battery of sexually violent
 predators facility staff.

1073 784.075 3rd Battery on detention or
 commitment facility staff.

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1074	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1075	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
1076	784.081(3)	3rd	Battery on specified official or employee.
1077	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
1078	784.083(3)	3rd	Battery on code inspector.
1079	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1080	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1081	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

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1082	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
1083	787.07	3rd	Human smuggling.
1084	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1085	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1086	790.115(2)(c)	3rd	Possessing firearm on school property.
1087	794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
1088	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1089	806.135	2nd	Destroying or demolishing a memorial or historic property.
1090			

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1091	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1092	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1093	810.06	3rd	Burglary; possession of tools.
1094	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1095	810.145(3)(b)	3rd	Digital voyeurism dissemination.
1096	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1097	812.014 (2)(c)4. & 6.-10.	3rd	Grand theft, 3rd degree; specified items.
	812.014(2)(d)2.	3rd	Grand theft, 3rd degree; \$750 or more taken from dwelling or its unenclosed curtilage.

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1098	812.014(2)(e)3.	3rd	Petit theft, 1st degree; less than \$40 taken from dwelling or its unenclosed curtilage with two or more prior theft convictions.
1099	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1100	817.505(4)(a)	3rd	Patient brokering.
1101	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1102	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
1103	817.5695(3)(c)	3rd	Exploitation of person 65 years of age or older, value less than \$10,000.
1104	817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
1105			

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1106	817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.
	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
1107	836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
1108	836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
1109	837.02(1)	3rd	Perjury in official proceedings.
1110	837.021(1)	3rd	Make contradictory statements in official proceedings.
1111	838.022	3rd	Official misconduct.
1112	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1113			

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	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
1114	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1115	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1116	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1117	843.19(2)	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
1118	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
1119	870.01(3)	2nd	Aggravated rioting.
1120	870.01(5)	2nd	Aggravated inciting a riot.
1121			

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874.05(1)(a) 3rd Encouraging or recruiting another to join a criminal gang.

1122 893.13(2)(a)1. 2nd Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).

1123 914.14(2) 3rd Witnesses accepting bribes.

1124 914.22(1) 3rd Force, threaten, etc., witness, victim, or informant.

1125 914.23(2) 3rd Retaliation against a witness, victim, or informant, no bodily injury.

1126 916.1085 3rd Introduction of specified contraband into certain DCF facilities.

1127 (2)(c)1.

1128 918.12 3rd Tampering with jurors.

934.215 3rd Use of two-way communications device to facilitate commission of a crime.

1129 944.47(1)(a)6. 3rd Introduction of contraband

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(cellular telephone or other portable communication device) into correctional institution.

1130 951.22(1)(h), 3rd Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

1131

1132 Section 25. Effective July 1, 2025, paragraph (a) of

1133 subsection (12) of section 1009.26, Florida Statutes, is amended

1134 to read:

1135 1009.26 Fee waivers.—

1136 (12)(a) A state university, a Florida College System

1137 institution, a career center operated by a school district under

1138 s. 1001.44, or a charter technical career center shall waive

1139 out-of-state fees for students who are citizens of the United

1140 States or lawfully present in the United States, ~~including, but~~

1141 ~~not limited to, students who are undocumented for federal~~

1142 ~~immigration purposes~~, who meet the following conditions:

1143 1. Attended a secondary school in this state for 3

1144 consecutive years immediately before graduating from a high

1145 school in this state;

1146 2. Apply for enrollment in an institution of higher

1147 education within 24 months after high school graduation; and

1148 3. Submit an official Florida high school transcript as

1149 evidence of attendance and graduation.

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1150 Section 26. Students receiving a fee waiver pursuant to s.
 1151 1009.26(12), Florida Statutes, must be reevaluated for
 1152 eligibility beginning July 1, 2025.

1153 Section 27. Section 1 of chapter 2023-3, Laws of Florida,
 1154 is repealed.

1155 Section 28. (1) The State Board of Immigration Enforcement
 1156 within the Department of Law Enforcement is authorized, and all
 1157 conditions are deemed met, to adopt emergency rules pursuant to
 1158 s. 120.54(4), Florida Statutes, for the purpose of implementing
 1159 provisions related to the Local Law Enforcement Immigration
 1160 Grant Program created by this act. Notwithstanding any other
 1161 law, emergency rules adopted pursuant to this subsection are
 1162 effective for 6 months after adoption and may be renewed during
 1163 the pendency of procedures to adopt permanent rules addressing
 1164 the subject of the emergency rules.

1165 (2) This section expires July 1, 2026.

1166 Section 29. The Legislature finds that the state's criminal
 1167 justice training centers as well as facilities of the Department
 1168 of Military Affairs, such as the Camp Blanding Joint Training
 1169 Center, are highly qualified and critical strategic, year-round
 1170 assets for training. The Legislature has made significant
 1171 investments to make the Camp Blanding Joint Training Center the
 1172 premier facility in the Southeast. In order to support the
 1173 anticipated training and operations involving multiple federal,
 1174 state, and local agencies, and given the scale and value of this
 1175 state's assets, the Department of Military Affairs and local law
 1176 enforcement shall work with the State Board of Immigration
 1177 Enforcement within the Department of Law Enforcement to ensure
 1178 that the state's federal partners can access and use the state's

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1179 physical assets in order to further the nation's mission to
 1180 address illegal immigration. Such activities include outreach to
 1181 federal partners as well as entering into agreements for the use
 1182 of such facilities.

1183 Section 30. (1) For the 2024-2025 fiscal year, the sums of
 1184 \$680,046 in recurring funds and \$250,026,781 in nonrecurring
 1185 funds are appropriated from the General Revenue Fund to the
 1186 State Board of Immigration Enforcement within the Department of
 1187 Law Enforcement to implement this act.

1188 (2) From the recurring general revenue funds, \$680,046
 1189 shall be allocated to the State Board of Immigration Enforcement
 1190 budget entity in specific appropriations categories: \$478,235 in
 1191 Salaries and Benefits, \$30,053 in Expenses, \$150,000 in
 1192 Contracted Services, \$10,000 in Operating Capital Outlay,
 1193 \$10,000 in Lease/Purchase of Equipment, and \$1,758 in Transfer
 1194 to the Department of Management Services/Statewide Human
 1195 Resources Contract. These funds shall be released immediately
 1196 upon this act becoming a law.

1197 (3) From the nonrecurring general revenue funds, \$26,781
 1198 shall be allocated to the State Board of Immigration Enforcement
 1199 budget entity in the Expenses category. These funds shall be
 1200 released immediately upon this act becoming a law.

1201 (4) The Department of Law Enforcement is authorized to
 1202 establish 5.00 full-time equivalent positions with associated
 1203 salary rate of 325,928 in the State Board of Immigration
 1204 Enforcement budget entity for the purpose of implementing this
 1205 act. The following specific positions, classifications, and pay
 1206 plans are authorized: one Executive Director, class code 9900,
 1207 pay plan 09; one Senior Management Analyst Supervisor-SES, class

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1208 code 2228, pay plan 08; two Governmental Analyst II, class code
 1209 2225, pay plan 01; and one Administrative Assistant II, class
 1210 code 0712, pay plan 01.

1211 (5) From the nonrecurring general revenue funds,
 1212 \$250,000,000 shall be allocated to specific appropriation
 1213 special category Local Law Enforcement Immigration Grant Program
 1214 in the State Board of Immigration Enforcement budget entity to
 1215 implement the Local Law Enforcement Immigration Grant Program.
 1216 The funds shall be released as provided in s. 908.1033, Florida
 1217 Statutes, created by this act. The unexpended balance of
 1218 nonrecurring funds remaining on June 30, 2025, shall revert and
 1219 is appropriated to the department for Fiscal Year 2025-2026 for
 1220 the same purposes.

1221 Section 31. (1) For the 2024-2025 fiscal year, the sums of
 1222 \$12,553,547 in recurring funds and \$35,570,178 in nonrecurring
 1223 funds are appropriated from the General Revenue Fund to the
 1224 Department of Agriculture and Consumer Services to enhance
 1225 interdiction activities and protect the borders of this state.

1226 (2) (a) From the recurring general revenue funds, the sum of
 1227 \$12,553,547 shall be allocated to the Agricultural Law
 1228 Enforcement budget entity in specific appropriations categories:
 1229 \$8,574,036 in Salaries and Benefits, \$3,449,999 in Expenses,
 1230 \$500,000 in Contracted Services, and \$29,512 in Transfer to the
 1231 Department of Management Services/Statewide Human Resources
 1232 Contract.

1233 (b) These funds shall be released immediately upon this act
 1234 becoming a law.

1235 (3) (a) From the nonrecurring general revenue funds, the sum
 1236 of \$35,570,178 shall be allocated to the Agricultural Law

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1237 Enforcement budget entity in specific appropriations categories:
 1238 \$327,754 in Operating Capital Outlay, \$25,000,000 in Fixed
 1239 Capital Outlay - Facilities Construction and Major Renovations,
 1240 \$10,029,160 in Acquisition of Motor Vehicles, and \$213,264 in
 1241 Acquisition of Boats, Motors, and Trailers.

1242 (b) These funds shall be released immediately upon this act
 1243 becoming a law. The unexpended balance of nonrecurring general
 1244 revenue funds appropriated to the Department of Agriculture and
 1245 Consumer Services remaining on June 30, 2025, shall revert and
 1246 is appropriated to the department for Fiscal Year 2025-2026 for
 1247 the same purposes.

1248 (4) The Department of Agriculture and Consumer Services is
 1249 authorized to establish 84.00 full-time equivalent positions
 1250 with associated salary rate of 5,064,250 in the Agricultural Law
 1251 Enforcement budget entity to expand law enforcement coverage of
 1252 interdiction stations and improve border security. The following
 1253 specific positions, classifications, and pay plans are
 1254 authorized: one Law Enforcement Major, class code 8630, pay plan
 1255 08; one Law Enforcement Captain, class code 8632, pay plan 08;
 1256 eight Law Enforcement Lieutenants, class code 8522, pay plan 01;
 1257 47 Law Enforcement Officers, class code 8515, pay plan 01; 21
 1258 Law Enforcement Investigator I, class code 8540, pay plan 01;
 1259 two Administrative Assistant III, class code 0714, pay plan 01;
 1260 one senior attorney, class code 7738, pay plan 08; one Crime
 1261 Intelligence Analyst I, class code 8433, pay plan 01; one Human
 1262 Resource Specialist/HR-SES, class code 0190, pay plan 08; and
 1263 one Purchasing Analyst, class code 0830, pay plan 01.

1264 Section 32. The Division of Law Revision is directed to
 1265 replace the phrase "the effective date of this act" wherever it

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1266 occurs in this act with the date this act becomes a law.

1267 Section 33. Except as otherwise provided in this act, this

1268 act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 4-C

INTRODUCER: Senator Gruters

SUBJECT: Immigration

DATE: February 11, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stokes	Sadberry	AP	Pre-meeting

I. Summary:

SB 4-C directs the division of law to create ch. 811, F.S., to be entitled “Unauthorized Aliens, Nationality, and Immigration.” The bill creates the *crimes of illegal entry and illegal reentry* within this chapter. Each of these crimes exist in federal law, and some states, such as Texas, have passed similar legislation.

Unauthorized Aliens, Nationality, and Immigration

Crimes of Illegal Entry and Reentry

The bill creates s. 811.102, F.S., to create the crime of illegal entry by an adult unauthorized alien into this state. An adult unauthorized alien who knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers commits a first degree misdemeanor. A person convicted of this offense must be sentenced to a mandatory minimum term of imprisonment of 9 months.

- A second violation is a third degree felony and requires a mandatory minimum term of imprisonment of one year and one day.
- A third or subsequent violation is a third degree felony and requires a mandatory minimum term of imprisonment of two years.

The bill provides for an affirmative defense, and that any person may not be arrested for this offense if he or she encountered law enforcement during the investigation of another crime that occurred in this state and the person witnessed or reported such crime or was a victim of such crime.

The bill creates s. 811.103, F.S., to create the crime of illegal reentry of an adult unauthorized alien. An adult unauthorized alien commits a third degree felony if he or she, after having been denied admission, excluded, deported, or removed or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state. A person who is convicted of this crime must be

sentenced to a mandatory minimum term of imprisonment of one year and one day. The bill provides exceptions to this crime. An unauthorized alien who:

- Has three or more prior misdemeanor or felony convictions, other than a forcible felony, or an aggravated felony, and who commits the crime of illegal reentry, commits a third degree felony and must be sentenced to a mandatory minimum term of imprisonment of two years.
- Has a prior conviction for a forcible felony, or an aggravated felony and who commits the crime of illegal reentry commits a second degree felony and must be sentenced to a mandatory minimum term of imprisonment for five years.

The court must presume that no conditions of release can reasonably assure the presence of an unauthorized alien who is arrested for illegal reentry, and such person must be detained pending the disposition of his or her case.

Additionally, the bill provides that a person arrested for illegal entry or illegal reentry is not eligible for civil citation or various diversion programs, and requires law enforcement agencies to report such arrest to the federal government.

Death Penalty

The bill creates s. 921.1426, F.S., to provide that the court must sentence a defendant who is an unauthorized alien and who is convicted or adjudicated guilty of a capital felony to a sentence of death.

The bill may have a positive indeterminate impact on the Department of Corrections (DOC), and may have a negative fiscal impact on the State Courts. *See Section V. Fiscal Impact Statement.*

The bill is effective upon becoming law.

II. Present Situation:

Immigration Enforcement Encounters

Over the last four federal fiscal years (FFY),¹ the U.S. Border Patrol and Office of Field Operations has recorded close to 11.5 million enforcement encounters as described in the table below.² These actions refer to those involving 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, and individuals who withdraw an application for admission and return to their countries of origin within a short timeframe.”³ The total also includes encounters that led to apprehensions or expulsions; apprehensions refer to individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.⁴

¹ U.S. Immigration and Customs Enforcement, Department of Homeland Security, Enforcement and Removal Operations, Mission, available at <https://www.ice.gov/about-ice/ero> (last visited January 23, 2025). The federal fiscal year is October 1 to September 30 of the next calendar year.

² U.S. Customs and Border Protection, Department of Homeland Security, *Total CBP Enforcement Actions*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited January 23, 2025).

³ *Id.* at note 1.

⁴ *Id.* at notes 1 and 2.

Enforcement	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Total Enforcement Encounters	646,822	1,956,519	2,766,582	3,201,144	2,901,142

In addition to the approximately 11.5 million enforcement encounters, the U.S. Customs and Border Protection has recorded roughly 2 million known “gotaways” since the beginning of FFY 2021, but the actual number of gotaways may be 20 percent greater.⁵ Gotaways are individuals who have evaded detection and attempts at verifying their identities or backgrounds.

Immigration Enforcement by States

On June 30, 2023, Florida prisons housed 4,682 confirmed alien inmates. This is 127 more than the previous year, which totaled 4,555 alien inmates. Approximately 79.2% of confirmed alien inmates are in prison for violent crimes, followed by 9.0% for property crimes, 7.5% for drug crimes, and 4.4% for other crimes.⁶

According to U.S. Customs and Border Protection the term “criminal noncitizens” refers to individuals who have been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol. In 2024, there were 17,048 arrests of criminal noncitizens, almost 1,800 more arrests than the previous year. Of those arrests, 10,935 are for illegal re-entry after prior deportation.⁷

The Office of Homeland Security Statistics reported in 2022 that Florida had the third highest number of lawful permanent residents per million residents in the country, just behind New Jersey and New York.⁸

Texas Model

In a 2023 special session, Texas lawmakers passed SB 4 pertaining to illegal immigration. The bill created a Class B misdemeanor for a person who is an alien and enters or attempts to enter the state directly from a foreign nation anywhere other than a lawful port of entry and authorizes law enforcement to arrest such persons. Upon conviction, a judge must issue an order requiring the person to return to the foreign nation from which he or she entered or attempted to enter. The bill reclassifies the offense to a felony if it is shown the defendant has previously been convicted of such an offense. The bill also created a Class A misdemeanor for illegal reentry and

⁵ Homeland Security Committee Republicans, U.S. House of Representatives, *Border Crisis Startling Stats: Fiscal Year 2024 Ends With Nearly 3 Million Inadmissible Encounters Bringing Total Encounters to 10.8 Million Since FY2021*, (September 2024), available at <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>. (last visited January 26, 2025).

⁶ Florida Department of Corrections, *2022-2023 Annual Report* (page 35), available at, https://fdc-media.ccplatform.net/content/download/3089/file/Annual_Report_22-23_V10.pdf (last visited February 3, 2025).

⁷ U.S. Customs and Border Protection, *Criminal Noncitizen Statistics*, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics> (last visited February 3, 2025).

⁸ Office of Homeland Security Statistics, *State Immigration Statistics*, available at <https://ohss.dhs.gov/topics/immigration/state-immigration-data/state-immigration-statistics> (last visited February 3, 2025).

reclassified that crime to a felony upon certain circumstances. Additionally, the bill provided discretion in certain cases and civil immunity for state workers and law enforcement.⁹

The legislation was to go into effect March 2024, but legal challenges from the U.S. Justice Department and immigration advocacy organizations have prevented the law from going into effect, claiming the law encroaches on the federal government's sole authority over immigration.¹⁰

On February 29, 2024, the U.S. District Court for the Western District of Texas granted a motion for preliminary injunction to block the bill from going into effect while litigation is pending. The State of Texas appealed this decision.¹¹ On March 19, 2024, the U.S. Supreme Court issued an order allowing the state of Texas to enforce the legislation as challenges proceeded in the appeals court. Hours later, the Fifth Circuit Court of Appeals scheduled a hearing for oral arguments on the administrative stay and reinstated the district court's injunction, stopping the legislation from going into effect.¹²

As of January 31, 2025, the case will go to trial July 8, 2025.¹³

The Death Penalty

Under current Florida law, the term "capital felony" means a crime for which a person may be sentenced to death.¹⁴ Among these crimes are:

- The unlawful killing of a human being:
 - When perpetrated from a premeditated design to effect the death of the person killed or any human being;¹⁵
 - When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any specified offense;¹⁶ or
 - Which resulted from the unlawful distribution by a person 18 years of age or older of any specified substances, or mixture containing any specified substance, when such substance or mixture is proven to have caused, or is proven to have been a substantial factor in producing, the death of the user.
- Sexual battery, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age.¹⁷

⁹ LegiScan, State of Texas, *SB 4 enrolled*, available at <https://legiscan.com/TX/text/SB4/id/2851390/Texas-2023-SB4-Enrolled.html> (last visited February 7, 2025).

¹⁰ The Texas Tribune, *Texas Immigration Law: Here's What to Know About SB 4*, March 18, 2024, available at <https://www.texastribune.org/2024/03/18/texas-sb-4-immigration-arrest-law/> (last visited February 7, 2025).

¹¹ ACLU Texas, *Federal Court Blocks Extreme Texas Legislation That Would Overstep Federal Immigration Law*, February 29, 2024, available at <https://www.aclutx.org/en/press-releases/federal-court-blocks-extreme-texas-legislation-sb-4-would-overstep-federal> (last visited February 7, 2025).

¹² The Texas Tribune, *Texas' New Immigration Law is Blocked Again*, March 19, 2024, available at <https://www.texastribune.org/2024/03/19/texas-sb-4-illegal-immigration/> (last visited February 7, 2025).

¹³ Austin American-Statesman, *Challenge to Texas Immigration Law Will Head to Trial in July, Federal Judge orders*, January 31, 2025, available at <https://www.statesman.com/story/news/politics/2025/01/31/texas-immigration-deportation-law-sb4-heads-to-july-trial/78060545007/> (last visited February 7, 2025).

¹⁴ See Sections 921.141, 921.142, and 921.1425, F.S.

¹⁵ Section 782.04(1)(a)1., F.S.

¹⁶ Section 782.04(1)(a)2., F.S.

¹⁷ Section 794.011(2), F.S.

- Trafficking in specified controlled substances.¹⁸

While the above listed crimes are all capital offenses, the U.S. Supreme Court has held that capital punishment must ‘be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution.’¹⁹

Under Florida capital crime sentencing statutes, the jury and the judge both play a role.²⁰ In a jury trial, if the defendant is found guilty of a capital crime by a unanimous jury vote, the court must conduct a separate sentencing proceeding to determine whether the defendant must be sentenced to death or life imprisonment.²¹

In the sentencing proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any specified aggravating factors or mitigating circumstances. Aggravating factors include, in part:

- The defendant was previously convicted of a capital felony or a felony involving the use or threat of violence.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was particularly heinous, atrocious, or cruel.
- The victim was a law enforcement officer in the performance of his or her duties.²²

Mitigating circumstances include, in part:

- The defendant has no significant history of prior criminal history.
- The defendant acted under extreme duress.
- The age of the defendant.
- The capacity of the defendant to appreciate his or her conduct.
- The capital felony was committed while the defendant was under extreme mental or emotional disturbance.²³

The state and the defendant, or the defendant's counsel, must be permitted to present argument for or against the sentence of death.²⁴

A unanimous jury must determine whether the state has proven at least one aggravating factor beyond a reasonable doubt.²⁵ If an aggravating factor is unanimously found to exist, the defendant is eligible for the death penalty and the jury must make a sentencing recommendation to the judge.²⁶

¹⁸ See s. 893.135, F.S.

¹⁹ *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

²⁰ Section 921.141, F.S.

²¹ Section 921.141(1), F.S.

²² Section 921.141(6), F.S.

²³ Section 921.141(7), F.S.

²⁴ Section 921.141(1), F.S.

²⁵ Section 921.141(2), F.S.

²⁶ Section 921.141(2)(b)2., F.S.

Such recommendation must be based on weighing:²⁷

- Whether sufficient aggravating factors exist;
- Whether aggravating factors exist which outweigh the mitigating circumstances found to exist; and,
- Based on those considerations, determine whether the defendant should be sentenced to death or life imprisonment without parole.²⁸

If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of death.²⁹

However, if at least eight jurors recommend a sentence of death, the judge, after considering each aggravating factor found unanimously by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death.³⁰ If the court imposes a sentence of life after the jury has recommended a sentence of death, the court must enter a written order including the reasons for not accepting the jury's recommended sentence.³¹

If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of life imprisonment without the possibility of parole, and the judge will impose that sentence.³²

In each case in which the court imposes a sentence of life imprisonment without the possibility of parole or death, the court must enter a written order addressing the aggravating factors, mitigating circumstances, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances.³³

III. Effect of Proposed Changes:

Unauthorized Aliens, Nationality, and Immigration

The bill directs the division of law to create ch. 811, F.S., to be entitled "Unauthorized Aliens, Nationality, and Immigration." The bill creates the *crimes of illegal* entry and *illegal reentry* within this chapter.

²⁷ Section 921.141(2)(b), F.S.

²⁸ Section 921.141(2)(b), F.S.

²⁹ Section 921.141(2)(c), F.S.

³⁰ Section 921.141(3)(a)2., F.S.

³¹ Section 921.141(4), F.S.

³² Section 921.141(2) and (3)(a)1., F.S.

³³ Section 921.141(4), F.S.

Crimes of Illegal Entry and Reentry

The bill creates s. 811.102, F.S., to create the crime of illegal entry by an adult unauthorized alien³⁴ into this state. An adult unauthorized alien who knowingly enters or attempts to enter this state after entering the United States by eluding or avoiding examination or inspection by immigration officers commits a first degree misdemeanor.³⁵ A person convicted of this offense must be sentenced to a mandatory minimum term of imprisonment of 9 months.

- A second violation is a third degree felony³⁶ and requires a mandatory minimum term of imprisonment of one year and one day.
- A third or subsequent violation is a third degree felony and requires a mandatory minimum term of imprisonment of two years.

The bill provides it is an affirmative defense to the newly created crime if:

- The Federal Government has granted the unauthorized alien lawful presence in the United States or discretionary relief that authorizes the unauthorized alien to remain in the United States temporarily or permanently;
- The unauthorized alien is subject to relief under the Cuban Adjustment Act of 1966;³⁷ or
- The unauthorized alien's entry into the United States did not constitute a violation of 8 U.S.C. s. 1325(a).³⁸

Additionally, a person may not be arrested for this offense if he or she encountered law enforcement during the investigation of another crime that occurred in this state and the person witnessed or reported such crime or was a victim of such crime.

The bill creates s. 811.103, F.S., to create the crime of illegal reentry of an adult unauthorized alien. An adult unauthorized alien commits a third degree felony if he or she, after having been denied admission, excluded, deported, or removed³⁹ or having departed the United States during the time an order of exclusion, deportation, or removal is outstanding, thereafter enters, attempts to enter, or is at any time found in this state.

A person who is convicted of this crime must be sentenced to a mandatory minimum term of imprisonment of one year and one day. The bill provides an unauthorized alien does not commit

³⁴ Section 908.111, F.S., the term "unauthorized alien," means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, [8 U.S.C. ss. 1101 et seq.](#) The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

³⁵ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

³⁶ A third degree felony is punishable by up to 5 years' incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

³⁷ U.S. Citizen and Immigration Services, Green Card for Cuban Citizen, available at, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-a-cuban-native-or-citizen#:~:text=The%20Cuban%20Adjustment%20Act%20of%201966%20%28CAA%29%20allows,become%20lawful%20permanent%20residents%20%28get%20a%20Green%20Card%29>. (last visited February 9, 2025). The Cuban Adjustment Act of 1966 (CAA) allows Cuban natives or citizens living in the United States who meet certain eligibility requirements to apply to become lawful permanent residents (get a Green Card).

³⁸ 8 U.S.C s. 1325 relates to unlawful entry by an alien.

³⁹ The definition of "removal," is provided in the bill and means the departure from the United States of an unauthorized alien after any proceeding under 8 U.S.C. ss. 1225, 1228, 1229, or 1229a or any agreement in which an unauthorized alien stipulates to his or her departure from the United States as part of a criminal proceeding under federal or state law.

a violation of this subsection if, before the unauthorized alien's reembarkation at a place outside the United States or his or her application for admission from a foreign contiguous territory:

- The Attorney General of the United States expressly consented to his or her reapplication for admission; or
- With respect to an unauthorized alien who was previously denied admission and removed, the unauthorized alien establishes that he or she was not required to obtain such advance consent under the Immigration and Nationality Act, as amended.

The penalties for this crime are increased if an unauthorized alien who:

- Has three or more prior misdemeanor or felony convictions, other than a forcible felony,⁴⁰ or an aggravated felony,⁴¹ and who commits the crime of illegal reentry, commits a third degree felony and must be sentenced to a mandatory minimum term of imprisonment of two years.
- Has a prior conviction for a forcible felony, or an aggravated felony and who commits the crime of illegal reentry commits a second degree felony and must be sentenced to a mandatory minimum term of imprisonment for five years.

The court must presume that no conditions of release can reasonably assure the presence of an unauthorized alien who is arrested for either crimes of illegal entry or illegal reentry, and such person must be detained pending the disposition of his or her case.

Additionally, the bill provides that a person arrested for illegal entry or illegal reentry is not eligible for civil citation or various diversion programs and requires law enforcement agencies to report such arrest to the federal government.

Section 811.101, F.S., is created to provide the definitions of the terms "removal" and "unauthorized alien."

Death Penalty

The bill creates s. 921.1426, F.S., to provide that the court must sentence a defendant who is an unauthorized alien and who is convicted or adjudicated guilty of a capital felony to a sentence of death.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴⁰ Section 776.08, F.S., provides that a forcible felony is treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

⁴¹ 8 U.S.C. s. 1101, provides the definition of aggravated felony.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The crimes created in the bill and the mandatory sentencing scheme may be subject to future challenges. The crimes and sentencing scheme presented in this bill only apply to unauthorized aliens.

Equal Protection

The Fourteenth Amendment to the U.S. Constitution is not confined to the protection of citizens. It says: “[n]or shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.”⁴² Because immigration status is not a protected class, it is likely that equal protection challenges to the statutes in the bill will be subject to the lower, rational basis standard. The U.S. Supreme Court (Court) has used a rational basis standard for determining that a state did not establish a sufficient rational basis for denying undocumented children access to public education that the state afforded other residents.⁴³

Due Process

The Court has long held that: “it must be concluded that all persons within the territory of the United States are entitled to the protection guaranteed by [the fifth and sixth] amendments, and that even aliens shall not be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law.”⁴⁴

The bill creates a capital crime sentencing statute that differs from Florida’s current law by imposing a mandatory death sentence without a capital sentencing procedure which only applies to unauthorized aliens. Although there was a time when states had “mandatory death sentence” laws, the Court has found such laws unconstitutional, stating “the history of mandatory death penalty statutes in the United States thus reveals that the

⁴² See *Plyer v. Doe*, 457 U.S. 202 (1982); *Wong Wing v. U.S.*, 163 U.S. 228 (1896).

⁴³ *Plyer v. Doe*, 457 U.S. 202 (1982).

⁴⁴ *Wong Wing v. U.S.*, 163 U.S. 228 (1896).

practice of sentencing to death all persons convicted of a particular offense has been rejected as unduly harsh and unworkably rigid.⁴⁵

Furthermore, the bill mandates the death penalty if an unauthorized alien is convicted of a capital offense. Under Florida law, a capital offense includes crimes such as trafficking in controlled substances, sexual battery upon a person less than 12, and crimes of homicide. It appears under the language in the bill that any unauthorized alien convicted of any capital offense must be sentenced to death. The Court has explained that capital punishment must ‘be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution.’⁴⁶

Federal Preemption

The new crimes created in the bill related to illegal entry or illegal reentry may be subject to challenges for encroaching upon federal law. The Court has found that the Federal Government’s broad, undoubted power over immigration and alien status rests, in part on its constitutional power to “establish an uniform Rule of Naturalization,” and on its inherent sovereign power to control and conduct foreign relations.⁴⁷ Additionally, the Supremacy clause gives Congress the power to preempt state law, either by an express or inferred preemption. State laws are also preempted when they conflict with federal law.⁴⁸ The Court has stated that although “federal law permits state officers to ‘cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States,’ this does not encompass the unilateral decision to detain.”⁴⁹

Eighth Amendment

The Eighth Amendment to the U.S. Constitution provides protections against cruel and unusual punishment. The Court has held that the Eighth Amendment stands to assure that the State’s power to punish is “exercised within the limits of civilized standards.”⁵⁰ The Court held that North Carolina’s mandatory death penalty statute for first degree murder departed “markedly from contemporary standards respecting the imposition of the punishment of death” and could not be applied consistently with the Eighth Amendment.⁵¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴⁵ *Woodson v. North Carolina*, 96 S.Ct. 2978 (1976)..

⁴⁶ *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

⁴⁷ *Arizona v. U.S.*, 567 U.S. 387 (2012).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Woodson v. North Carolina*, 96 S.Ct. 2978 (1976).

⁵¹ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate fiscal impact on the DOC due to the creation of new crimes and the increased beds that may be needed to house unauthorized aliens who commit the crimes created in the bill.

Additionally, the bill may have a negative fiscal impact on the state courts due to the potential increase in death sentences due to the mandatory death penalty for unauthorized aliens.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 811.101, 811.102, 811.103, and 921.1426.

This bill creates an undesignated section of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Gruters

22-00002-25C

20254C__

1 A bill to be entitled
 2 An act relating to immigration; providing a directive
 3 to the Division of Law Revision; creating s. 811.101,
 4 F.S.; defining the terms "removal" and "unauthorized
 5 alien"; creating s. 811.102, F.S.; providing criminal
 6 penalties for adult unauthorized aliens who knowingly
 7 enter or attempt to enter this state after entering
 8 the United States by eluding or avoiding examination
 9 or inspection by immigration officers; providing a
 10 mandatory minimum term of imprisonment; providing
 11 enhanced criminal penalties for second or subsequent
 12 convictions; providing mandatory minimum terms of
 13 imprisonment; prohibiting the arrest of unauthorized
 14 aliens under specified circumstances; providing
 15 affirmative defenses; requiring a court to presume
 16 that no conditions of release can reasonably assure
 17 the presence of an unauthorized alien arrested for
 18 certain violations at trial and to order the detention
 19 of such an unauthorized alien arrested for such a
 20 violation pending disposition of the case; specifying
 21 that such aliens are not eligible for any civil
 22 citation or other prearrest or postarrest diversion
 23 program; requiring the arresting law enforcement
 24 agency to notify certain entities of the unauthorized
 25 alien's arrest; creating s. 811.103, F.S.; providing
 26 criminal penalties for an adult unauthorized alien
 27 who, after having been denied admission, excluded,
 28 deported, or removed or having departed the United
 29 States during the time an order of exclusion,

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30 deportation, or removal is outstanding, thereafter
 31 enters, attempts to enter, or is at any time found in
 32 this state; providing exceptions; providing a
 33 mandatory minimum term of imprisonment; providing
 34 enhanced criminal penalties for an unauthorized alien
 35 whose arrest for such violations was after convictions
 36 for the commission of specified offenses; requiring a
 37 court to presume that no conditions of release can
 38 reasonably assure the presence of an unauthorized
 39 alien arrested for certain violations at trial and to
 40 order the detention of such an unauthorized alien
 41 arrested for such a violation pending disposition of
 42 the case; specifying that such aliens are not eligible
 43 for any civil citation or other prearrest or
 44 postarrest diversion program; requiring the arresting
 45 law enforcement agency to notify certain entities of
 46 the unauthorized alien's arrest; creating s. 921.1426,
 47 F.S.; requiring a court to sentence a defendant who is
 48 an unauthorized alien and who is convicted or
 49 adjudicated guilty of a capital felony to a sentence
 50 of death; defining the term "unauthorized alien";
 51 providing an effective date.

52
 53 Be It Enacted by the Legislature of the State of Florida:

54
 55 Section 1. The Division of Law Revision is directed to
 56 create chapter 811, Florida Statutes, to be entitled
 57 "UNAUTHORIZED ALIENS, NATIONALITY, AND IMMIGRATION," consisting
 58 of ss. 811.101, 811.102, and 811.103, Florida Statutes.

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59 Section 2. Section 811.101, Florida Statutes, is created to
60 read:

61 811.101 Definitions.—As used in this chapter, the term:

62 (1) "Removal" means the departure from the United States of
63 an unauthorized alien after any proceeding under 8 U.S.C. ss.
64 1225, 1228, 1229, or 1229a or any agreement in which an
65 unauthorized alien stipulates to his or her departure from the
66 United States as part of a criminal proceeding under federal or
67 state law.

68 (2) "Unauthorized alien" has the same meaning as in s.
69 908.111.

70 Section 3. Section 811.102, Florida Statutes, is created to
71 read:

72 811.102 Illegal entry by adult unauthorized alien into this
73 state.—

74 (1) Except as provided in subsection (2), an unauthorized
75 alien who is 18 years of age or older and who knowingly enters
76 or attempts to enter this state after entering the United States
77 by eluding or avoiding examination or inspection by immigration
78 officers commits a misdemeanor of the first degree, punishable
79 as provided in s. 775.082 or s. 775.083. A person convicted of a
80 violation of this subsection must be sentenced to a mandatory
81 minimum term of imprisonment of 9 months.

82 (2) (a) An unauthorized alien who has one prior conviction
83 for a violation of this section and who commits a second
84 violation of subsection (1) commits a felony of the third
85 degree, punishable as provided in s. 775.082, s. 775.083, or s.
86 775.084. A person convicted of a violation of this paragraph
87 must be sentenced to a mandatory minimum term of imprisonment of

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88 1 year and 1 day.

89 (b) An unauthorized alien who has two or more prior
90 convictions for a violation of this section and who commits a
91 subsequent violation of subsection (1) commits a felony of the
92 third degree, punishable as provided in s. 775.082, s. 775.083,
93 or s. 775.084. A person convicted for a violation of this
94 paragraph must be sentenced to a mandatory minimum term of
95 imprisonment of 2 years.

96 (3) An unauthorized alien may not be arrested for a
97 violation of this section if the unauthorized alien was
98 encountered by law enforcement during the investigation of
99 another crime that occurred in this state and the unauthorized
100 alien witnessed or reported such crime or was a victim of such
101 crime.

102 (4) It is an affirmative defense to prosecution under this
103 section if:

104 (a) The Federal Government has granted the unauthorized
105 alien lawful presence in the United States or discretionary
106 relief that authorizes the unauthorized alien to remain in the
107 United States temporarily or permanently;

108 (b) The unauthorized alien is subject to relief under the
109 Cuban Adjustment Act of 1966; or

110 (c) The unauthorized alien's entry into the United States
111 did not constitute a violation of 8 U.S.C. s. 1325(a).

112 (5) Notwithstanding any other law, and unless release is
113 otherwise required by the State Constitution or the United
114 States Constitution, the court shall presume that no conditions
115 of release can reasonably assure the presence of an unauthorized
116 alien arrested for a violation of this section at his or her

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117 trial and must order the unauthorized alien to be detained
 118 pending the disposition of the case.

119 (6) An unauthorized alien who commits a violation of this
 120 section is not eligible for a civil citation, prearrest or
 121 postarrest diversion program, or other similar program,
 122 including, but not limited to, any program described in s.
 123 901.41 or s. 921.00241.

124 (7) Upon making an arrest for a violation of this section,
 125 the arresting law enforcement agency shall:

126 (a) Notify Immigration and Customs Enforcement of the
 127 United States Department of Homeland Security of the
 128 unauthorized alien's arrest and provide any known information
 129 relating to the unauthorized alien; and

130 (b) Notify the Department of Law Enforcement of the
 131 unauthorized alien's arrest and provide information relating to
 132 the unauthorized alien, which must include his or her
 133 fingerprints, photograph, and any other biometric information
 134 necessary to identify the unauthorized alien.

135 Section 4. Section 811.103, Florida Statutes, is created to
 136 read:

137 811.103 Illegal reentry of an adult unauthorized alien.—

138 (1) An unauthorized alien who is 18 years of age or older
 139 commits a felony of the third degree, punishable as provided in
 140 s. 775.082, s. 775.083, or s. 775.084, if he or she, after
 141 having been denied admission, excluded, deported, or removed or
 142 having departed the United States during the time an order of
 143 exclusion, deportation, or removal is outstanding, thereafter
 144 enters, attempts to enter, or is at any time found in this
 145 state. An unauthorized alien does not commit a violation of this

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146 subsection if, before the unauthorized alien's reembarkation at
 147 a place outside the United States or his or her application for
 148 admission from a foreign contiguous territory:

149 (a) The Attorney General of the United States expressly
 150 consented to his or her reapplication for admission; or

151 (b) With respect to an unauthorized alien who was
 152 previously denied admission and removed, the unauthorized alien
 153 establishes that he or she was not required to obtain such
 154 advance consent under the Immigration and Nationality Act, as
 155 amended.

156 (2) Except as provided in subsection (3), an unauthorized
 157 alien who violates subsection (1) must be sentenced to a
 158 mandatory minimum term of imprisonment of 1 year and 1 day.

159 (3) (a) An unauthorized alien who has three or more prior
 160 convictions for a misdemeanor or a felony, other than a forcible
 161 felony as defined in s. 776.08 or an aggravated felony as
 162 defined in 8 U.S.C. s. 1101, and who commits a violation of
 163 subsection (1) commits a felony of the third degree, punishable
 164 as provided in s. 775.082, s. 775.083, or s. 775.084. A person
 165 convicted of violating this paragraph must be sentenced to a
 166 mandatory minimum term of imprisonment of 2 years.

167 (b) An unauthorized alien who has a prior conviction for a
 168 forcible felony as defined in s. 776.08 or an aggravated felony
 169 as defined in 8 U.S.C. s. 1101 and who commits a violation of
 170 subsection (1) commits a felony of the second degree, punishable
 171 as provided in s. 775.082, s. 775.083, or s. 775.084. A person
 172 convicted of a violation of this paragraph must be sentenced to
 173 a mandatory minimum term of imprisonment of 5 years.

174 (4) Notwithstanding any other law, and unless release is

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175 otherwise required by the State Constitution or the United
 176 States Constitution, the court shall presume that no conditions
 177 of release can reasonably assure the presence of an unauthorized
 178 alien arrested for a violation of this section at his or her
 179 trial and must order the unauthorized alien to be detained
 180 pending the disposition of the case.

181 (5) An unauthorized alien who commits a violation of this
 182 section is not eligible for a civil citation, prearrest or
 183 postarrest diversion program, or other similar program,
 184 including, but not limited to, any program described in s.
 185 901.41 or s. 921.00241.

186 (6) Upon making an arrest for a violation of this section,
 187 the arresting law enforcement agency shall:

188 (a) Notify Immigration and Customs Enforcement of the
 189 United States Department of Homeland Security of the
 190 unauthorized alien's arrest and provide any known information
 191 relating to the unauthorized alien; and

192 (b) Notify the Department of Law Enforcement of the
 193 unauthorized alien's arrest and provide information relating to
 194 the unauthorized alien, which must include his or her
 195 fingerprints, photograph, and any other biometric information
 196 necessary to identify the unauthorized alien.

197 Section 5. Section 921.1426, Florida Statutes, is created
 198 to read:

199 921.1426 Sentence of death for capital offense committed by
 200 unauthorized alien.—Notwithstanding any provision of law to the
 201 contrary, the court shall sentence a defendant who is an
 202 unauthorized alien and who is convicted or adjudicated guilty of
 203 a capital felony to a sentence of death. As used in this

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204 section, the term "unauthorized alien" has the same meaning as
 205 in s. 908.111.

206 Section 6. This act shall take effect upon becoming a law.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SM 6-C

INTRODUCER: Senator Gruters

SUBJECT: Secretary of Homeland Security

DATE: February 11, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Wyant	Sadberry	AP	Pre-meeting

I. Summary:

SM 6-C is a memorial to the Secretary of the U.S. Department of Homeland Security urging the Secretary to provide guidance, training opportunities, and any other necessary directives for 287(g) agreements under the Immigration and Nationality Act, 8 U.S.C. s. 1357.

The 287(g) program allows for the U.S. Immigration and Customs Enforcement (ICE) to partner with state and local law enforcement agencies to identify and remove incarcerated criminal aliens. In 2022, the Legislature required all law enforcement agencies operating a county detention facility to enter into 287(g) agreements with ICE.

President Trump issued the executive order *Protecting the American People Against Invasion* directing Secretary of Homeland Security to enter into 287(g) agreements to perform the functions by assisting the federal government with the investigation, apprehension, or detention of illegal aliens.

The memorial states Florida is ready to provide assistance and the state's training facilities are available and prepared to meet the anticipated training and operational needs of state and local law enforcement agencies entering into 287(g) agreements.

Finally, the memorial urges the Secretary of Homeland Security to provide guidance on 287(g) agreements to maximize Florida's assistance to the Federal Government in its immigration enforcement efforts.

The memorial does not have a fiscal impact on the state or local governments.

II. Present Situation:

Memorials

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.¹

287(g) Immigration Program

Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which established the 287(g) program.² The 287(g) program is part of the Immigration and Nationality Act, 8 U.S.C. s. 1357 and allows the U.S. Immigration and Customs Enforcement (ICE) to partner with state and local law enforcement agencies to identify and remove incarcerated criminal aliens who are amenable to removal from the United States before they are released into the community. There are two program models:

- The Jail Enforcement Model; and
- The Warrant Service Officer program.

The Jail Enforcement Model is designed to identify and process removable aliens who are arrested by state and local law enforcement and have criminal or pending criminal charges. The Warrant Service Officer program allows ICE to train, certify, and authorize state and local law enforcement officers to serve and execute administrative warrants on aliens in their agency's jail.³

In 2022, the Legislature passed CS/SB 1808 which required each law enforcement agency operating a county detention facility to enter into a written agreement with the ICE to participate in the 287(g) program.⁴ Until the law enforcement agency enters into the written agreement, the agency must notify the Department of Law Enforcement (FDLE) quarterly of the status of such written agreement and any reason for noncompliance if applicable.⁵

According to FDLE, 47 counties and the Department of Corrections have executed agreements with ICE.⁶

¹ The Florida Senate, Office of Bill Drafting Services, *Manual for Drafting Legislation*, 137-138 (2009), <https://flsenate.sharepoint.com/sites/Secretary/Publications%20Library/Forms/AllItems.aspx?id=%2Fsites%2FSecretary%2FPublications%20Library%2FManual%20for%20Drafting%20Legislation%20%28Senate%29%2Epdf&parent=%2Fsites%2FSecretary%2FPublications%20Library>.

² 8 U.S.C. s. 1101

³ U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, (January 24, 2025), available at <https://www.ice.gov/identify-and-arrest/287g> (last visited February 8, 2025).

⁴ Section 908.11, F.S. A law enforcement agency is not required to participate in a particular program model.

⁵ *Id.*

⁶ Florida Department of Law Enforcement, *SB 1808 Immigration Enforcement (2022)*, (on file with the Senate Committee on Criminal Justice).

Executive Order Protecting the American People Against Invasion

On January 20, 2025, President Trump issued the executive order *Protecting the American People Against Invasion* to ensure that the Federal Government protects the American people by faithfully executing the immigration laws of the U.S.. Within this order:

- The Attorney General and the Secretary of Homeland Security are required to establish Homeland Security Task Forces (HSTFs) in all states, the composition of such to include representation from relevant state and local law enforcement agencies.
- The Secretary of Homeland Security may, through 287(g) agreements, authorize state and local law enforcement officials, as deemed appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the discretions of the Secretary of Homeland Security.
- The Secretary of Homeland Security is permitted to structure the 287(g) agreements in the manner necessary to provide the most effective model for enforcing federal immigration laws.
- The Secretary of Homeland Security must promptly issue guidance to ensure maximum compliance by Department of Homeland Security personnel with the provisions of 8 U.S.C. 1373 and 8 U.S.C. 1644 and ensure that State and local governments are provided with the information necessary to fulfill law enforcement, citizenship, or immigration status verification requirements authorized by law.⁷

Florida's Efforts to Combat Illegal Immigration

In response to the border crisis, the Legislature has passed state laws to combat illegal immigration.⁸ Further, Florida provides an environment for year-round assets for law enforcement training, through continued cooperation in immigration legislation and enforcement, and training facilities such as the Camp Blanding Joint Training Center (CBJTC). The CBJTC is located near Starke, Florida, and is a 73,000-acre premier training center for Florida National Guard units. The training center provides ranges, education facilities, and simulation platforms, and other services to the Florida National Guard and numerous federal, state, and local customers.⁹

III. Effect of Proposed Changes:

The memorial urges the Secretary of Homeland Security to provide guidance, training opportunities, and any other necessary directives to ensure cooperation and coordination with 287(g) agreements and to maximize the state and local law enforcement agencies impact in assisting the Federal government in combatting the effects of the unprecedented flood of illegal immigration to the United States.

⁷ Executive Order by President Trump, *Protecting the American People Against Invasion* (January 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/> (last visited February 8, 2025).

⁸ See SB 1808 (2022), SB 1718 (2023), HB 1598 (2024), SB 1036 (2024), HB 1451 (2024).

⁹ Florida National Guard, *Camp Blanding Joint Training Center*, available at <https://fl.ng.mil/Commands/Camp-Blanding-Joint-Training-Center/>. (last visited February 8, 2025).

Copies of the memorial will be sent by Florida's Secretary of State to the Secretary of the U.S. Department of Homeland Security, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The memorial does not require the counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Gruters

22-00001-25C

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Senate Memorial

A memorial to the Secretary of Homeland Security urging the United States Department of Homeland Security to provide guidance and training opportunities for 287(g) agreements.

WHEREAS, President Donald J. Trump, in Executive Order 14159, titled "Protecting the American People Against Invasion", ordered the Secretary of Homeland Security to work with state and local law enforcement agencies across the United States to ensure their assistance with the protection of the American people, and

WHEREAS, President Trump ordered the Secretary of Homeland Security to enter into 287(g) agreements, under the Immigration and Nationality Act, 8 U.S.C. s. 1357, with state and local law enforcement agencies to perform the functions of immigration officers by assisting the Federal Government with the investigation, apprehension, and detention of illegal aliens, and

WHEREAS, President Trump ordered the Secretary of Homeland Security to structure 287(g) agreements in the manner that provides the most effective model for state and local law enforcement agencies to assist the Federal Government in enforcing federal immigration laws, and

WHEREAS, in response to the border crisis, the Legislature passed enhanced state laws to combat illegal immigration, making Florida a national leader in fighting illegal immigration, and

WHEREAS, Senate Bill 1808 (2022) required county correctional facilities to enter into 287(g) agreements with the

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Federal Government, and

WHEREAS, to better assist state and local law enforcement agencies, the Secretary of Homeland Security and the Federal Government should provide such agencies with guidance and training opportunities, and

WHEREAS, Florida is ready to provide assistance, as this state is home to robust, highly qualified, strategic, year-round assets for law enforcement training, including the Camp Blanding Joint Training Center in which the taxpayers have made significant investments to establish it as the premier training facility in the Southeastern United States, and

WHEREAS, this state's training facilities are available and prepared to meet the anticipated training and operational needs of state and local law enforcement agencies entering into 287(g) agreements, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the Secretary of Homeland Security is urged to provide guidance, training opportunities, and any other necessary directives to ensure cooperation and coordination with 287(g) agreements and to maximize the state and local law enforcement agencies impact in assisting the Federal Government in combatting the effects of the unprecedented flood of illegal immigration to the United States.

BE IT FURTHER RESOLVED that the Secretary of State is directed to dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the

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59 Secretary of Homeland Security, and each member of the Florida
60 delegation to the United States Congress.