

By Senator Torres

15-01306A-17

20171674__

1 A bill to be entitled
2 An act relating to enforcement of federal laws;
3 creating ch. 908, F.S.; providing a short title;
4 creating ss. 908.101-908.107, F.S.; providing
5 legislative intent; providing definitions; prohibiting
6 state and local law enforcement agencies, school
7 officers, and security agencies from certain actions
8 for purposes of immigration enforcement; providing
9 exceptions; requiring state and local law enforcement
10 agencies to review confidentiality policies and revise
11 such policies, if necessary; requiring the Attorney
12 General, K-12 public schools and public postsecondary
13 educational institutions, hospitals, and courthouses
14 to develop and publicize certain policies; requiring
15 the Attorney General to prescribe a format for persons
16 to submit a complaint; authorizing the Attorney
17 General or state attorney to institute injunctive
18 proceedings; providing severability; providing an
19 effective date.

20
21 WHEREAS, the Legislature finds that one in five residents
22 of the state is foreign-born and one in three children in the
23 state has at least one immigrant parent, and

24 WHEREAS, immigrants are valuable and essential members of
25 our community, and a relationship of trust between immigrants
26 and state and local law enforcement agencies is central to
27 public safety, and

28 WHEREAS, the Legislature concurs in the recent finding and
29 recommendation of President Obama's Taskforce on 21st Century

15-01306A-17

20171674__

30 Policing that whenever possible, state and local law enforcement
 31 should not be involved in federal immigration enforcement, and

32 WHEREAS, state and local departments and agencies operate
 33 with limited resources and personnel, and involvement in federal
 34 immigration enforcement diverts these already limited resources
 35 and personnel away from state and local matters, and

36 WHEREAS, state law does not authorize local law enforcement
 37 to arrest or detain individuals for federal immigration
 38 purposes, and

39 WHEREAS, state and local law enforcement involvement in
 40 federal immigration enforcement raises constitutional concerns
 41 regarding the Equal Protection Clause and the Fourth Amendment,
 42 NOW, THEREFORE,

43

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

45

46 Section 1. Chapter 908, Florida Statutes, consisting of
 47 sections 908.101-908.107, is created to read:

48

CHAPTER 908

49

FEDERAL IMMIGRATION ENFORCEMENT

50

908.101 Short title.—This act may be cited as the “Florida
 51 Trust Act.”

52

908.102 Legislative intent.—It is the intent of the
 53 Legislature to protect the safety and constitutional rights of
 54 citizens of the state and to direct the state’s limited
 55 resources to matters of greatest concern to state and local
 56 governments.

57

908.103 Definitions.—As used in this chapter:

58

(1) “Civil immigration warrant” means a warrant for a

15-01306A-17

20171674__

59 violation of federal immigration law and includes a warrant
60 entered in the Immigration Violator File of the National Crime
61 Information Center database.

62 (2) "Hold, notification request, or transfer request" means
63 a request from an immigration authority to a state or local law
64 enforcement agency to facilitate the arrest or transfer of an
65 individual to federal immigration custody. The term includes a
66 request on form I-247, I-247D, I-247N, or I-247X.

67 (3) "Immigration authority" means an officer, employee, or
68 person employed by or acting as an agent of the United States
69 Immigration and Customs Enforcement, or a division thereof, or
70 an officer, employee, or person employed by or acting as an
71 agent of the United States Department of Homeland Security who
72 is charged with immigration enforcement under s. 287 of the
73 federal Immigration and Nationality Act or a federal program
74 including, but not limited to, the Priority Enforcement Program
75 or any successor program.

76 (4) "Immigration enforcement" means an investigation or
77 enforcement, or assistance in the investigation or enforcement,
78 of any federal immigration law, including such laws that
79 penalize a person's presence in, entry or reentry to, or
80 employment in, the United States, including, but not limited to,
81 a violation of section 1253, section 1324(c), section 1325, or
82 section 1326 of Title 8 of the United States Code.

83 (5) "Judicial warrant" means a warrant based on probable
84 cause which authorizes an immigration authority to take into
85 custody the person who is the subject of such warrant. Such
86 warrant must be issued by a judge appointed pursuant to Article
87 III of the Constitution of the United States or a federal

15-01306A-17

20171674__

88 magistrate judge appointed pursuant to 28 U.S.C. s. 631.

89 (6) "School officer" means a school resource officer or
90 school safety officer as described in s. 1006.12.

91 908.104 State and local law enforcement agencies.—

92 (1) A state and local law enforcement agency, school
93 officer, or security agency may not use agency resources or
94 personnel to investigate, arrest, or detain a person for
95 purposes of immigration enforcement. Such resources include, but
96 are not limited to, labor and resources expended in:

97 (a) Responding to a hold, notification request, or transfer
98 request from an immigration authority.

99 (b) Responding to a request from an immigration authority
100 for information not publicly available regarding a person's
101 release date, home address, or work address for purposes of
102 immigration enforcement.

103 (c) Making an arrest based on civil immigration warrants.

104 (d) Performing functions of an immigration officer pursuant
105 to 8 U.S.C. s. 1357(g) or any other law, regulation, or policy,
106 whether formal or informal.

107 (2) Notwithstanding any other provision of law, a state or
108 local law enforcement agency, school officer, or security agency
109 may not, without a judicial warrant, transfer an individual to
110 an immigration authority or detain an individual at the request
111 of an immigration authority for purposes of immigration
112 enforcement.

113 (3) A state and local law enforcement agency, school
114 officer, security agency, and other state agencies may not make
115 an agency database available for purposes of immigration
116 enforcement or an investigation or enforcement related to a

15-01306A-17

20171674__

117 federal program requiring registration of an individual on the
118 basis of race, gender, disability, sexual orientation, gender
119 identity, religion, immigration status, or national or ethnic
120 origin. Any agreement to make available a database in conflict
121 with this subsection which is in existence on July 1, 2017, is
122 invalid.

123 (4) This section does not prevent a state or local law
124 enforcement agency from responding to a lawful subpoena or
125 request from an immigration authority for information about a
126 person's previous criminal arrests or convictions.

127 908.105 Confidentiality policies.—A state and local law
128 enforcement agency shall review its confidentiality policies and
129 make any necessary revisions as expeditiously as possible to
130 ensure that information collected by such agency from an
131 individual is limited and may not be used or disclosed beyond
132 the specifically authorized purpose for which it was collected.

133 908.106 Accessibility of public schools, hospitals, and
134 courthouses.—

135 (1) The Attorney General shall develop and provide, through
136 the Department of Legal Affairs' website, model policies for K-
137 12 public schools and public postsecondary educational
138 institutions, hospitals, and courthouses to ensure safety and
139 accessibility in these locations to all residents of the state,
140 regardless of immigration status.

141 (2) K-12 public schools and public postsecondary
142 educational institutions, hospitals, and courthouses shall
143 develop and make public policies that limit immigration
144 enforcement on their premises to the fullest extent possible
145 consistent with federal and state law.

15-01306A-17

20171674__

146 908.107 Violations.-

147 (1) The Attorney General shall prescribe and provide,
148 through the Department of Legal Affairs' website, the format for
149 a person to submit a complaint alleging a violation of this
150 chapter. This section does not prohibit filing an anonymous
151 complaint or a complaint submitted in another format.

152 (2) The Attorney General or a state attorney may institute
153 proceedings in circuit court to enjoin a state entity, state
154 official, law enforcement agency, local governmental entity, or
155 local government official, school officer, or security agency
156 found to be in violation of this chapter.

157 Section 2. The provisions of this act are severable. If any
158 provision of this act or its application is held invalid, that
159 invalidity shall not affect other provisions or applications
160 that can be given effect without the invalid provision or
161 application.

162 Section 3. This act shall take effect July 1, 2017.