

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Smith, C. offered the following:

**Substitute Amendment for Amendment (880999) (with title amendment)**

Remove lines 91-272 and insert:

procedure, or custom adopted or allowed by a local governmental entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 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:

(a) Complying with an immigration detainer;

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13 (b) Complying with a request from a federal immigration  
14 agency to notify the agency before the release of an inmate or  
15 detainee in the custody of the law enforcement agency;

16 (c) Providing a federal immigration agency access to an  
17 inmate for interview;

18 (d) Participating in any program or agreement authorized  
19 under section 287 of the Immigration and Nationality Act, 8  
20 U.S.C. s. 1357; or

21 (e) Providing a federal immigration agency with an  
22 inmate's incarceration status or release date.

23 908.103 Sanctuary policies prohibited.—A law enforcement  
24 agency or local governmental entity may not adopt or have in  
25 effect a sanctuary policy.

26 908.104 Cooperation with federal immigration authorities.—

27 (1) A law enforcement agency shall use best efforts to  
28 support the enforcement of federal immigration law. This  
29 subsection applies to an official, representative, agent, or  
30 employee of the entity or agency only when he or she is acting  
31 within the scope of his or her official duties or within the  
32 scope of his or her employment.

33 (2) Except as otherwise expressly prohibited by federal  
34 law, a local governmental entity or law enforcement agency, or  
35 an employee, an agent, or a representative of the entity or  
36 agency, may not prohibit or in any way restrict a law

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37 enforcement agency from taking any of the following actions with  
38 respect to information regarding a person's immigration status:

39 (a) Sending the information to or requesting, receiving,  
40 or reviewing the information from a federal immigration agency  
41 for purposes of this chapter.

42 (b) Recording and maintaining the information for purposes  
43 of this chapter.

44 (c) Exchanging the information with a federal immigration  
45 agency or another local governmental entity or law enforcement  
46 agency for purposes of this chapter.

47 (d) Using the information to comply with an immigration  
48 detainer.

49 (e) Using the information to confirm the identity of an  
50 individual who is detained by a law enforcement agency.

51 (3) (a) For purposes of this subsection, the term  
52 "applicable criminal case" means a criminal case in which:

53 1. The judgment requires the defendant to be confined in a  
54 secure correctional facility; and

55 2. The judge:

56 a. Indicates in the record under s. 908.105 that the  
57 defendant is subject to an immigration detainer; or

58 b. Otherwise indicates in the record that the defendant is  
59 subject to a transfer into federal custody.

60 (b) In an applicable criminal case, when the judge  
61 sentences a defendant who is the subject of an immigration

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62 detainer to confinement, the judge shall issue an order  
63 requiring the secure correctional facility in which the  
64 defendant is to be confined to reduce the defendant's sentence  
65 by a period of not more than 12 days on the facility's  
66 determination that the reduction in sentence will facilitate the  
67 seamless transfer of the defendant into federal custody. For  
68 purposes of this paragraph, the term "secure correctional  
69 facility" means a state correctional institution as defined in  
70 s. 944.02 or a county detention facility or a municipal  
71 detention facility as defined in s. 951.23.

72 (c) If the information specified in sub-subparagraph  
73 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
74 the sentence is pronounced in the case, but is received by a law  
75 enforcement agency afterwards, the law enforcement agency shall  
76 notify the judge who shall issue the order described by  
77 paragraph (b) as soon as the information becomes available.

78 (4) When a county correctional facility or the Department  
79 of Corrections receives verification from a federal immigration  
80 agency that a person subject to an immigration detainer is in  
81 the law enforcement agency's custody, the agency may securely  
82 transport the person to a federal facility in this state or to  
83 another point of transfer to federal custody outside the  
84 jurisdiction of the law enforcement agency. The law enforcement  
85 agency may transfer a person who is subject to an immigration  
86 detainer and is confined in a secure correctional facility to

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87 the custody of a federal immigration agency not earlier than 12  
88 days before his or her release date. A law enforcement agency  
89 shall obtain judicial authorization before securely transporting  
90 an alien to a point of transfer outside of this state.

91 (5) This section does not require a local governmental  
92 entity or law enforcement agency to provide a federal  
93 immigration agency with information related to a victim of or a  
94 witness to a criminal offense if the victim or witness timely  
95 and in good faith responds to the entity's or agency's request  
96 for information and cooperation in the investigation or  
97 prosecution of the offense.

98 (6) A local governmental entity or law enforcement agency  
99 that, pursuant to subsection (5), withholds information  
100 regarding the immigration information of a victim of or witness  
101 to a criminal offense shall document the victim's or witness's  
102 cooperation in the entity's or agency's investigative records  
103 related to the offense and shall retain the records for at least  
104 10 years for the purpose of audit, verification, or inspection  
105 by the Auditor General.

106 (7) This section does not authorize a law enforcement  
107 agency to detain an alien unlawfully present in the United  
108 States pursuant to an immigration detainer solely because the  
109 alien witnessed or reported a crime or was a victim of a  
110 criminal offense.

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111 (8) This section does not apply to any alien unlawfully  
112 present in the United States if he or she is or has been a  
113 necessary witness or victim of a crime of domestic violence,  
114 rape, sexual exploitation, sexual assault, murder, manslaughter,  
115 assault, battery, human trafficking, kidnapping, false  
116 imprisonment, involuntary servitude, fraud in foreign labor  
117 contracting, blackmail, extortion, or witness tampering.

118 908.105 Duties related to immigration detainers.-

119 (1) A law enforcement agency that has custody of a person  
120 subject to an immigration detainer issued by a federal  
121 immigration agency shall:

122 (a) Provide to the judge authorized to grant or deny the  
123 person's release on bail under chapter 903 notice that the  
124 person is subject to an immigration detainer.

125 (b) Record in the person's case file that the person is  
126 subject to an immigration detainer.

127 (c) Upon determining that the immigration detainer is in  
128 accordance with s. 908.102(2), comply with the requests made in  
129 the immigration detainer.

130 (2) A law enforcement agency is not required to perform a  
131 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
132 respect to a person who is transferred to the custody of the  
133 agency by another law enforcement agency if the transferring  
134 agency performed that duty before the transfer.

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135 (3) A judge who receives notice that a person is subject  
136 to an immigration detainer shall cause the fact to be recorded  
137 in the court record, regardless of whether the notice is  
138 received before or after a judgment in the case.

139 908.106 Reimbursement of costs.—Each county correctional  
140 facility shall enter into an agreement or agreements with a  
141 federal immigration agency for temporarily housing persons who  
142 are the subject of immigration detainers and for the payment of  
143 the costs of housing and detaining those persons. A compliant  
144 agreement may include any contract between a correctional  
145 facility and a federal immigration agency for housing or  
146 detaining persons subject to immigration detainers, such as  
147 basic ordering agreements in effect on or after July 1, 2019,  
148 agreements authorized by section 287 of the Immigration and  
149 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and  
150 other similar agreements authorized by federal law.

151 908.107 Enforcement.—

152 (1) Any executive or administrative state, county, or  
153 municipal officer who violates his or her duties under this  
154 chapter may be subject to action by the Governor in the exercise  
155 of his or her authority under the State Constitution and state  
156 law. Pursuant to s. 1(b), Art. IV of the State Constitution, the  
157 Governor may initiate judicial proceedings in the name of the  
158 state against such officers to enforce compliance with any duty

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159 | under this chapter or restrain any unauthorized act contrary to  
160 | this chapter.

161 | (2) In addition, the Attorney General may file suit  
162 | against a local governmental entity or local law enforcement  
163 | agency in a court of competent jurisdiction for declaratory or  
164 | injunctive relief for a violation of this chapter.

165 | (3) If a local governmental entity or local law  
166 | enforcement agency violates this chapter, the court must enjoin  
167 | the unlawful sanctuary policy. The court has continuing  
168 | jurisdiction over the parties and subject matter and may enforce  
169 | its orders with the initiation of contempt proceedings as  
170 | provided by law.

171 | (4) An order approving a consent decree or granting an  
172 | injunction must include written findings of fact that describe  
173 | with specificity the existence and nature of the sanctuary  
174 | policy that violates this chapter.

175 | 908.108 Education records.—This chapter does not apply to  
176 | the release of information contained in education records of an  
177 | educational agency or institution, except in conformity with the  
178 | Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
179 | 1232g.

180 | 908.109 Discrimination prohibited.—A local governmental  
181 | entity or a law enforcement agency, or a person

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**T I T L E   A M E N D M E N T**

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Remove lines 6-7 and insert:  
prohibiting sanctuary policies; requiring local  
governmental entities and law