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LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/RM	.	Floor: C
05/02/2019 04:14 PM	.	05/02/2019 06:21 PM
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Senator Gruters moved the following:

1           **Senate Amendment to House Amendment (159253) (with title**  
2 **amendment)**

3  
4           Delete lines 5 - 415  
5 and insert:

6           Section 1. Chapter 908, Florida Statutes, consisting of  
7 sections 908.101-908.109, is created to read:

8   CHAPTER 908  
9   FEDERAL IMMIGRATION ENFORCEMENT

10           908.101 Legislative findings and intent.—The Legislature  
11 finds that it is an important state interest to cooperate and



406006

12 assist the federal government in the enforcement of federal  
13 immigration laws within this state.

14 908.102 Definitions.—As used in this chapter, the term:

15 (1) "Federal immigration agency" means the United States  
16 Department of Justice and the United States Department of  
17 Homeland Security, a division within such an agency, including  
18 United States Immigration and Customs Enforcement and United  
19 States Customs and Border Protection, any successor agency, and  
20 any other federal agency charged with the enforcement of  
21 immigration law.

22 (2) "Immigration detainer" means a facially sufficient  
23 written or electronic request issued by a federal immigration  
24 agency using that agency's official form to request that another  
25 law enforcement agency detain a person based on probable cause  
26 to believe that the person to be detained is a removable alien  
27 under federal immigration law, including detainers issued  
28 pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant  
29 described in paragraph (c). For purposes of this subsection, an  
30 immigration detainer is deemed facially sufficient if:

31 (a) The federal immigration agency's official form is  
32 complete and indicates on its face that the federal immigration  
33 official has probable cause to believe that the person to be  
34 detained is a removable alien under federal immigration law; or

35 (b) The federal immigration agency's official form is  
36 incomplete and fails to indicate on its face that the federal  
37 immigration official has probable cause to believe that the  
38 person to be detained is a removable alien under federal  
39 immigration law, but is supported by an affidavit, order, or  
40 other official documentation that indicates that the federal



406006

41 immigration agency has probable cause to believe that the person  
42 to be detained is a removable alien under federal immigration  
43 law; and

44 (c) The federal immigration agency supplies with its  
45 detention request a Form I-200 Warrant for Arrest of Alien or a  
46 Form I-205 Warrant of Removal/Deportation or a successor warrant  
47 or other warrant authorized by federal law.

48 (3) "Inmate" means a person in the custody of a law  
49 enforcement agency.

50 (4) "Law enforcement agency" means an agency in this state  
51 charged with enforcement of state, county, municipal, or federal  
52 laws or with managing custody of detained persons in this state  
53 and includes municipal police departments, sheriff's offices,  
54 state police departments, state university and college police  
55 departments, county correctional agencies, and the Department of  
56 Corrections.

57 (5) "Local governmental entity" means any county,  
58 municipality, or other political subdivision of this state.

59 (6) "Sanctuary policy" means a law, policy, practice,  
60 procedure, or custom adopted or allowed by a state entity or  
61 local governmental entity which prohibits or impedes a law  
62 enforcement agency from complying with 8 U.S.C. s. 1373 or which  
63 prohibits or impedes a law enforcement agency from communicating  
64 or cooperating with a federal immigration agency so as to limit  
65 such law enforcement agency in, or prohibit the agency from:

66 (a) Complying with an immigration detainer;

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



406006

70 (c) Providing a federal immigration agency access to an  
71 inmate for interview;

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

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

77 (7) "State entity" means the state or any office, board,  
78 bureau, commission, department, branch, division, or institution  
79 thereof, including institutions within the State University  
80 System and the Florida College System.

81 908.103 Sanctuary policies prohibited.—A state entity, law  
82 enforcement agency, or local governmental entity may not adopt  
83 or have in effect a sanctuary policy.

84 908.104 Cooperation with federal immigration authorities.—

85 (1) A law enforcement agency shall use best efforts to  
86 support the enforcement of federal immigration law. This  
87 subsection applies to an official, representative, agent, or  
88 employee of the entity or agency only when he or she is acting  
89 within the scope of his or her official duties or within the  
90 scope of his or her employment.

91 (2) Except as otherwise expressly prohibited by federal  
92 law, a state entity, local governmental entity, or law  
93 enforcement agency, or an employee, an agent, or a  
94 representative of the entity or agency, may not prohibit or in  
95 any way restrict a law enforcement agency from taking any of the  
96 following actions with respect to information regarding a  
97 person's immigration status:

98 (a) Sending the information to or requesting, receiving, or



406006

99 reviewing the information from a federal immigration agency for  
100 purposes of this chapter.

101 (b) Recording and maintaining the information for purposes  
102 of this chapter.

103 (c) Exchanging the information with a federal immigration  
104 agency or another state entity, local governmental entity, or  
105 law enforcement agency for purposes of this chapter.

106 (d) Using the information to comply with an immigration  
107 detainer.

108 (e) Using the information to confirm the identity of a  
109 person who is detained by a law enforcement agency.

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

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

114 2. The judge:

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

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

119 (b) In an applicable criminal case, when the judge  
120 sentences a defendant who is the subject of an immigration  
121 detainer to confinement, the judge shall issue an order  
122 requiring the secure correctional facility in which the  
123 defendant is to be confined to reduce the defendant's sentence  
124 by a period of not more than 12 days on the facility's  
125 determination that the reduction in sentence will facilitate the  
126 seamless transfer of the defendant into federal custody. For  
127 purposes of this paragraph, the term "secure correctional



406006

128 facility” means a state correctional institution as defined in  
129 s. 944.02 or a county detention facility or a municipal  
130 detention facility as defined in s. 951.23.

131 (c) If the information specified in sub-subparagraph  
132 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
133 the sentence is pronounced in the case, but is received by a law  
134 enforcement agency afterwards, the law enforcement agency shall  
135 notify the judge who shall issue the order described by  
136 paragraph (b) as soon as the information becomes available.

137 (4) When a county correctional facility or the Department  
138 of Corrections receives verification from a federal immigration  
139 agency that a person subject to an immigration detainer is in  
140 the law enforcement agency’s custody, the agency may securely  
141 transport the person to a federal facility in this state or to  
142 another point of transfer to federal custody outside the  
143 jurisdiction of the law enforcement agency. The law enforcement  
144 agency may transfer a person who is subject to an immigration  
145 detainer and is confined in a secure correctional facility to  
146 the custody of a federal immigration agency not earlier than 12  
147 days before his or her release date. A law enforcement agency  
148 shall obtain judicial authorization before securely transporting  
149 an alien to a point of transfer outside of this state.

150 (5) This section does not require a state entity, local  
151 governmental entity, or law enforcement agency to provide a  
152 federal immigration agency with information related to a victim  
153 of or a witness to a criminal offense if the victim or witness  
154 timely and in good faith responds to the entity’s or agency’s  
155 request for information and cooperation in the investigation or  
156 prosecution of the offense.



406006

157       (6) A state entity, local governmental entity, or law  
158 enforcement agency that, pursuant to subsection (5), withholds  
159 information regarding the immigration information of a victim of  
160 or witness to a criminal offense shall document the victim's or  
161 witness's cooperation in the entity's or agency's investigative  
162 records related to the offense and shall retain the records for  
163 at least 10 years for the purpose of audit, verification, or  
164 inspection by the Auditor General.

165       (7) This section does not authorize a law enforcement  
166 agency to detain an alien unlawfully present in the United  
167 States pursuant to an immigration detainer solely because the  
168 alien witnessed or reported a crime or was a victim of a  
169 criminal offense.

170       (8) This section does not apply to any alien unlawfully  
171 present in the United States if he or she is or has been a  
172 necessary witness or victim of a crime of domestic violence,  
173 rape, sexual exploitation, sexual assault, murder, manslaughter,  
174 assault, battery, human trafficking, kidnapping, false  
175 imprisonment, involuntary servitude, fraud in foreign labor  
176 contracting, blackmail, extortion, or witness tampering.

177       908.105 Duties related to immigration detainers.-

178       (1) A law enforcement agency that has custody of a person  
179 subject to an immigration detainer issued by a federal  
180 immigration agency shall:

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

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



406006

186 (c) Upon determining that the immigration detainer is in  
187 accordance with s. 908.102(2), comply with the requests made in  
188 the immigration detainer.

189 (2) A law enforcement agency is not required to perform a  
190 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
191 respect to a person who is transferred to the custody of the  
192 agency by another law enforcement agency if the transferring  
193 agency performed that duty before the transfer.

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

198 908.106 Reimbursement of costs.—Each county correctional  
199 facility shall enter into an agreement or agreements with a  
200 federal immigration agency for temporarily housing persons who  
201 are the subject of immigration detainers and for the payment of  
202 the costs of housing and detaining those persons. A compliant  
203 agreement may include any contract between a correctional  
204 facility and a federal immigration agency for housing or  
205 detaining persons subject to immigration detainers, such as  
206 basic ordering agreements in effect on or after July 1, 2019,  
207 agreements authorized by section 287 of the Immigration and  
208 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and  
209 other similar agreements authorized by federal law.

210 908.107 Enforcement.—

211 (1) Any executive or administrative state, county, or  
212 municipal officer who violates his or her duties under this  
213 chapter may be subject to action by the Governor in the exercise  
214 of his or her authority under the State Constitution and state





406006

215 law. Pursuant to s. 1(b), Art. IV of the State Constitution, the  
216 Governor may initiate judicial proceedings in the name of the  
217 state against such officers to enforce compliance with any duty  
218 under this chapter or restrain any unauthorized act contrary to  
219 this chapter.

220 (2) In addition, the Attorney General may file suit against  
221 a local governmental entity or local law enforcement agency in a  
222 court of competent jurisdiction for declaratory or injunctive  
223 relief for a violation of this chapter.

224 (3) If a local governmental entity or local law enforcement  
225 agency violates this chapter, the court must enjoin the unlawful  
226 sanctuary policy. The court has continuing jurisdiction over the  
227 parties and subject matter and may enforce its orders with the  
228 initiation of contempt proceedings as provided by law.

229 (4) An order approving a consent decree or granting an  
230 injunction must include written findings of fact that describe  
231 with specificity the existence and nature of the sanctuary  
232 policy that violates this chapter.

233 908.108 Education records.—This chapter does not apply to  
234 the release of information contained in education records of an  
235 educational agency or institution, except in conformity with the  
236 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
237 1232g.

238 908.109 Discrimination prohibited.—A state entity, a local  
239 governmental entity, or a law enforcement agency, or a person  
240 employed by or otherwise under the direction or control of the  
241 entity or agency, may not base its actions under this chapter on  
242 the gender, race, religion, national origin, or physical  
243 disability of a person except to the extent authorized by the



406006

244 United States Constitution or the State Constitution.

245 Section 2. A sanctuary policy, as defined in s. 908.102,  
246 Florida Statutes, that is in effect on the effective date of  
247 this act violates the public policy of this state and must be  
248 repealed within 90 days after that date.

249 Section 3. Section 908.107, Florida Statutes, as created by  
250 this act, shall take effect October 1, 2019, and, except as  
251 otherwise expressly provided in this act, this act shall take  
252 effect July 1, 2019.

253

254 ===== T I T L E A M E N D M E N T =====

255 And the title is amended as follows:

256 Delete lines 422 - 461

257 and insert:

258 An act relating to federal immigration enforcement;  
259 creating chapter 908, F.S., relating to federal  
260 immigration enforcement; providing legislative  
261 findings and intent; providing definitions;  
262 prohibiting sanctuary policies; requiring state  
263 entities, local governmental entities, and law  
264 enforcement agencies to use best efforts to support  
265 the enforcement of federal immigration law;  
266 prohibiting restrictions by the entities and agencies  
267 on taking certain actions with respect to information  
268 regarding a person's immigration status; providing  
269 requirements concerning certain criminal defendants  
270 subject to immigration detainers or otherwise subject  
271 to transfer to federal custody; authorizing a law  
272 enforcement agency to transport an alien unlawfully



273 present in the United States under certain  
274 circumstances; providing an exception to reporting  
275 requirements for crime victims or witnesses; requiring  
276 recordkeeping relating to crime victim and witness  
277 cooperation in certain investigations; providing  
278 applicability; specifying duties concerning  
279 immigration detainers; requiring county correctional  
280 facilities to enter agreements for payments for  
281 complying with immigration detainers; providing for  
282 enforcement; providing for declaratory or injunctive  
283 relief; requiring a court to enjoin unlawful sanctuary  
284 policies; requiring written findings of fact under  
285 certain circumstances; providing for applicability to  
286 certain education records; prohibiting discrimination  
287 on specified grounds; providing for implementation;  
288 requiring repeal of existing sanctuary policies within  
289 a specified period; providing effective dates.