

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Polo offered the following:

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3 **Amendment to Amendment (159253)**

4 Remove lines 98-177 and insert:

5 (1) Except as otherwise expressly prohibited by federal
6 law, a state entity, local governmental entity, or law
7 enforcement agency, or an employee, an agent, or a
8 representative of the entity or agency, may not prohibit or in
9 any way restrict a law enforcement agency from taking any of the
10 following actions with respect to information regarding a
11 person's immigration status:

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12 (a) Sending the information to or requesting, receiving,
13 or reviewing the information from a federal immigration agency
14 for purposes of this chapter.

15 (b) Recording and maintaining the information for purposes
16 of this chapter.

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

20 (d) Using the information to comply with an immigration
21 detainer.

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

24 (2) (a) For purposes of this subsection, the term
25 "applicable criminal case" means a criminal case in which:

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

28 2. The judge:

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

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

33 (b) In an applicable criminal case, when the judge
34 sentences a defendant who is the subject of an immigration
35 detainer to confinement, the judge shall issue an order
36 requiring the secure correctional facility in which the

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37 defendant is to be confined to reduce the defendant's sentence
38 by a period of not more than 12 days on the facility's
39 determination that the reduction in sentence will facilitate the
40 seamless transfer of the defendant into federal custody. For
41 purposes of this paragraph, the term "secure correctional
42 facility" means a state correctional institution as defined in
43 s. 944.02 or a county detention facility or a municipal
44 detention facility as defined in s. 951.23.

45 (c) If the information specified in sub-subparagraph
46 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
47 the sentence is pronounced in the case, but is received by a law
48 enforcement agency afterwards, the law enforcement agency shall
49 notify the judge who shall issue the order described by
50 paragraph (b) as soon as the information becomes available.

51 (3) When a county correctional facility or the Department
52 of Corrections receives verification from a federal immigration
53 agency that a person subject to an immigration detainer is in
54 the law enforcement agency's custody, the agency may securely
55 transport the person to a federal facility in this state or to
56 another point of transfer to federal custody outside the
57 jurisdiction of the law enforcement agency. The law enforcement
58 agency may transfer a person who is subject to an immigration
59 detainer and is confined in a secure correctional facility to
60 the custody of a federal immigration agency not earlier than 12
61 days before his or her release date. A law enforcement agency

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62 shall obtain judicial authorization before securely transporting
63 an alien to a point of transfer outside of this state.

64 (4) This section does not require a state entity, local
65 governmental entity, or law enforcement agency to provide a
66 federal immigration agency with information related to a victim
67 of or a witness to a criminal offense if the victim or witness
68 timely and in good faith responds to the entity's or agency's
69 request for information and cooperation in the investigation or
70 prosecution of the offense.

71 (5) A state entity, local governmental entity, or law
72 enforcement agency that, pursuant to subsection (4), withholds
73 information regarding the immigration information of a victim of
74 or witness to a criminal offense shall document the victim's or
75 witness's cooperation in the entity's or agency's investigative
76 records related to the offense and shall retain the records for
77 at least 10 years for the purpose of audit, verification, or
78 inspection by the Auditor General.

79 (6) This section does not authorize a law enforcement
80 agency to detain an alien unlawfully present in the United
81 States pursuant to an immigration detainer solely because the
82 alien witnessed or reported a crime or was a victim of a
83 criminal offense.

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