

**By** the Committees on Rules; Infrastructure and Security; and Judiciary; and Senators Gruters, Bean, Mayfield, and Broxson

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1                                   A bill to be entitled  
2       An act relating to federal immigration enforcement;  
3       creating chapter 908, F.S., relating to federal  
4       immigration enforcement; providing legislative  
5       findings and intent; providing definitions;  
6       prohibiting sanctuary policies; requiring state  
7       entities, local governmental entities, and law  
8       enforcement agencies to use best efforts to support  
9       the enforcement of federal immigration law;  
10      prohibiting restrictions by the entities and agencies  
11      on taking certain actions with respect to information  
12      regarding a person's immigration status; providing  
13      requirements concerning certain criminal defendants  
14      subject to immigration detainers or otherwise subject  
15      to transfer to federal custody; authorizing a law  
16      enforcement agency to transport an alien unlawfully  
17      present in the United States under certain  
18      circumstances; providing an exception to reporting  
19      requirements for crime victims or witnesses; requiring  
20      recordkeeping relating to crime victim and witness  
21      cooperation in certain investigations; specifying  
22      duties concerning immigration detainers; requiring  
23      county correctional facilities to enter agreements for  
24      payments for complying with immigration detainers;  
25      providing for injunctive relief; providing for  
26      applicability to certain education records;  
27      prohibiting discrimination on specified grounds;  
28      providing for implementation; requiring repeal of  
29      existing sanctuary policies within a specified period;

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30 providing effective dates.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Chapter 908, Florida Statutes, consisting of  
35 sections 908.101-908.109, is created to read:

36 CHAPTER 908

37 FEDERAL IMMIGRATION ENFORCEMENT

38 908.101 Legislative findings and intent.—The Legislature  
39 finds that it is an important state interest to cooperate and  
40 assist the federal government in the enforcement of federal  
41 immigration laws within this state.

42 908.102 Definitions.—As used in this chapter, the term:

43 (1) "Federal immigration agency" means the United States  
44 Department of Justice and the United States Department of  
45 Homeland Security, a division within such an agency, including  
46 United States Immigration and Customs Enforcement and United  
47 States Customs and Border Protection, any successor agency, and  
48 any other federal agency charged with the enforcement of  
49 immigration law.

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

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

63 (b) The federal immigration agency's official form is  
64 incomplete and fails to indicate on its face that the federal  
65 immigration official has probable cause to believe that the  
66 person to be detained is a removable alien under federal  
67 immigration law, but is supported by an affidavit, order, or  
68 other official documentation that indicates that the federal  
69 immigration agency has probable cause to believe that the person  
70 to be detained is a removable alien under federal immigration  
71 law; and

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

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

78 (4) "Law enforcement agency" means an agency in this state  
79 charged with enforcement of state, county, municipal, or federal  
80 laws or with managing custody of detained persons in this state  
81 and includes municipal police departments, sheriff's offices,  
82 state police departments, state university and college police  
83 departments, county correctional agencies, and the Department of  
84 Corrections.

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

87 (6) "Sanctuary policy" means a law, policy, practice,

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88 procedure, or custom adopted or permitted by a state entity,  
89 local governmental entity, or law enforcement agency which  
90 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly  
91 prohibits or impedes a law enforcement agency from communicating  
92 or cooperating with a federal immigration agency with respect to  
93 federal immigration enforcement, including, but not limited to,  
94 limiting a law enforcement agency in, or prohibiting such agency  
95 from:

96 (a) Complying with an immigration detainer;

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

100 (c) Providing a federal immigration agency access to an  
101 inmate for interview;

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

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

107 (7) "State entity" means the state or any office, board,  
108 bureau, commission, department, branch, division, or institution  
109 thereof, including institutions within the State University  
110 System and the Florida College System.

111 908.103 Sanctuary policies prohibited.—A state entity, law  
112 enforcement agency, or local governmental entity may not adopt  
113 or have in effect a sanctuary policy.

114 908.104 Cooperation with federal immigration authorities.—

115 (1) A law enforcement agency shall use best efforts to  
116 support the enforcement of federal immigration law. This

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117 subsection applies to an official, representative, agent, or  
118 employee of the entity or agency only when he or she is acting  
119 within the scope of his or her official duties or within the  
120 scope of his or her employment.

121 (2) Except as otherwise expressly prohibited by federal  
122 law, a state entity, local governmental entity, or law  
123 enforcement agency, or an employee, an agent, or a  
124 representative of the entity or agency, may not prohibit or in  
125 any way restrict a law enforcement agency from taking any of the  
126 following actions with respect to information regarding a  
127 person's immigration status:

128 (a) Sending the information to or requesting, receiving, or  
129 reviewing the information from a federal immigration agency for  
130 purposes of this chapter.

131 (b) Recording and maintaining the information for purposes  
132 of this chapter.

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

136 (d) Using the information to comply with an immigration  
137 detainer.

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

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

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

144 2. The judge:

145 a. Indicates in the record under s. 908.105 that the

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146 defendant is subject to an immigration detainer; or

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

149 (b) In an applicable criminal case, when the judge  
150 sentences a defendant who is the subject of an immigration  
151 detainer to confinement, the judge shall issue an order  
152 requiring the secure correctional facility in which the  
153 defendant is to be confined to reduce the defendant's sentence  
154 by a period of not more than 12 days on the facility's  
155 determination that the reduction in sentence will facilitate the  
156 seamless transfer of the defendant into federal custody. For  
157 purposes of this paragraph, the term "secure correctional  
158 facility" means a state correctional institution as defined in  
159 s. 944.02 or a county detention facility or a municipal  
160 detention facility as defined in s. 951.23.

161 (c) If the information specified in sub-subparagraph  
162 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
163 the sentence is pronounced in the case, but is received by a law  
164 enforcement agency afterwards, the law enforcement agency shall  
165 notify the judge who shall issue the order described by  
166 paragraph (b) as soon as the information becomes available.

167 (4) When a county correctional facility or the Department  
168 of Corrections receives verification from a federal immigration  
169 agency that a person subject to an immigration detainer is in  
170 the law enforcement agency's custody, the agency may securely  
171 transport the person to a federal facility in this state or to  
172 another point of transfer to federal custody outside the  
173 jurisdiction of the law enforcement agency. The law enforcement  
174 agency may transfer a person who is subject to an immigration

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175 detainer and is confined in a secure correctional facility to  
176 the custody of a federal immigration agency not earlier than 12  
177 days before his or her release date. A law enforcement agency  
178 shall obtain judicial authorization before securely transporting  
179 an alien to a point of transfer outside of this state.

180 (5) This section does not require a state entity, local  
181 governmental entity, or law enforcement agency to provide a  
182 federal immigration agency with information related to a victim  
183 of or a witness to a criminal offense if the victim or witness  
184 timely and in good faith responds to the entity's or agency's  
185 request for information and cooperation in the investigation or  
186 prosecution of the offense.

187 (6) A state entity, local governmental entity, or law  
188 enforcement agency that, pursuant to subsection (5), withholds  
189 information regarding the immigration information of a victim of  
190 or witness to a criminal offense shall document the victim's or  
191 witness's cooperation in the entity's or agency's investigative  
192 records related to the offense and shall retain the records for  
193 at least 10 years for the purpose of audit, verification, or  
194 inspection by the Auditor General.

195 908.105 Duties related to immigration detainers.-

196 (1) A law enforcement agency that has custody of a person  
197 subject to an immigration detainer issued by a federal  
198 immigration agency shall:

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

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

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204 (c) Upon determining that the immigration detainer is in  
205 accordance with s. 908.102(2), comply with the requests made in  
206 the immigration detainer.

207 (2) A law enforcement agency is not required to perform a  
208 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
209 respect to a person who is transferred to the custody of the  
210 agency by another law enforcement agency if the transferring  
211 agency performed that duty before the transfer.

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

216 908.106 Reimbursement of costs.—Each county correctional  
217 facility shall enter into an agreement or agreements with a  
218 federal immigration agency for temporarily housing persons who  
219 are the subject of immigration detainers and for the payment of  
220 the costs of housing and detaining those persons. A compliant  
221 agreement may include any contract between a correctional  
222 facility and a federal immigration agency for housing or  
223 detaining persons subject to immigration detainers, such as  
224 basic ordering agreements in effect on or after July 1, 2019,  
225 agreements authorized by section 287 of the Immigration and  
226 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and  
227 other similar agreements authorized by federal law.

228 908.107 Enforcement.—

229 (1) The Attorney General may institute a civil action  
230 against any state entity, local government entity, or law  
231 enforcement agency for a violation of this chapter or to prevent  
232 a violation of this chapter. An action for relief may include an



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233 action for an injunction or any other appropriate orders or  
234 relief. Upon adjudication by the court or as provided in a  
235 consent decree declaring that a state entity, local governmental  
236 entity, or law enforcement agency has violated this chapter, the  
237 court shall enjoin the unlawful sanctuary policy. The court has  
238 continuing jurisdiction over the parties and subject matter and  
239 may enforce its orders with the initiation of contempt  
240 proceedings as provided by law.

241 (2) An order approving a consent decree or granting an  
242 injunction must include written findings of fact that describe  
243 with specificity the existence and nature of the sanctuary  
244 policy that is in violation of s. 908.103.

245 908.108 Education records.—This chapter does not apply to  
246 the release of information contained in education records of an  
247 educational agency or institution, except in conformity with the  
248 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
249 1232g.

250 908.109 Discrimination prohibited.—A state entity, a local  
251 governmental entity, or a law enforcement agency, or a person  
252 employed by or otherwise under the direction or control of the  
253 entity or agency, may not base its actions under this chapter on  
254 the gender, race, religion, national origin, or physical  
255 disability of a person except to the extent authorized by the  
256 United States Constitution or the State Constitution.

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

261 Section 3. Section 908.107, Florida Statutes, as created by

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262 this act, shall take effect October 1, 2019, and, except as  
263 otherwise expressly provided in this act, this act shall take  
264 effect July 1, 2019.