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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; providing
22 applicability; specifying duties concerning
23 immigration detainers; requiring county correctional
24 facilities to enter agreements for payments for
25 complying with immigration detainers; providing for
26 enforcement; providing for declaratory or injunctive
27 relief; requiring a court to enjoin unlawful sanctuary
28 policies; requiring written findings of fact under
29 certain circumstances; providing for applicability to

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30 certain education records; prohibiting discrimination
31 on specified grounds; providing for implementation;
32 requiring repeal of existing sanctuary policies within
33 a specified period; providing effective dates.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

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

39 CHAPTER 908

40 FEDERAL IMMIGRATION ENFORCEMENT

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

45 908.102 Definitions.—As used in this chapter, the term:

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

53 (2) "Immigration detainer" means a facially sufficient
54 written or electronic request issued by a federal immigration
55 agency using that agency's official form to request that another
56 law enforcement agency detain a person based on probable cause
57 to believe that the person to be detained is a removable alien
58 under federal immigration law, including detainers issued

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59 pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant
60 described in paragraph (c). For purposes of this subsection, an
61 immigration detainer is deemed facially sufficient if:

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

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

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

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

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

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

90 (6) "Sanctuary policy" means a law, policy, practice,
91 procedure, or custom adopted or allowed by a state entity or
92 local governmental entity which prohibits or impedes a law
93 enforcement agency from complying with 8 U.S.C. s. 1373 or which
94 prohibits or impedes a law enforcement agency from communicating
95 or cooperating with a federal immigration agency so as to limit
96 such law enforcement agency in, or prohibit the agency from:

97 (a) Complying with an immigration detainer;

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

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

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

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

108 (7) "State entity" means the state or any office, board,
109 bureau, commission, department, branch, division, or institution
110 thereof, including institutions within the State University
111 System and the Florida College System. The term does not include
112 the Department of Children and Families or the employees of the
113 department.

114 908.103 Sanctuary policies prohibited.—A state entity, law
115 enforcement agency, or local governmental entity may not adopt
116 or have in effect a sanctuary policy.

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117 908.104 Cooperation with federal immigration authorities.-

118 (1) A law enforcement agency shall use best efforts to
119 support the enforcement of federal immigration law. This
120 subsection applies to an official, representative, agent, or
121 employee of the entity or agency only when he or she is acting
122 within the scope of his or her official duties or within the
123 scope of his or her employment.

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

131 (a) Sending the information to or requesting, receiving, or
132 reviewing the information from a federal immigration agency for
133 purposes of this chapter.

134 (b) Recording and maintaining the information for purposes
135 of this chapter.

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

139 (d) Using the information to comply with an immigration
140 detainer.

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

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

145 1. The judgment requires the defendant to be confined in a

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146 secure correctional facility; and

147 2. The judge:

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

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

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

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

170 (4) When a county correctional facility or the Department
171 of Corrections receives verification from a federal immigration
172 agency that a person subject to an immigration detainer is in
173 the law enforcement agency's custody, the agency may securely
174 transport the person to a federal facility in this state or to

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

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

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

198 (7) This section does not authorize a law enforcement
199 agency to detain an alien unlawfully present in the United
200 States pursuant to an immigration detainer solely because the
201 alien witnessed or reported a crime or was a victim of a
202 criminal offense.

203 (8) This section does not apply to any alien unlawfully

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204 present in the United States if he or she is or has been a
205 necessary witness or victim of a crime of domestic violence,
206 rape, sexual exploitation, sexual assault, murder, manslaughter,
207 assault, battery, human trafficking, kidnapping, false
208 imprisonment, involuntary servitude, fraud in foreign labor
209 contracting, blackmail, extortion, or witness tampering.

210 908.105 Duties related to immigration detainers.—

211 (1) A law enforcement agency that has custody of a person
212 subject to an immigration detainer issued by a federal
213 immigration agency shall:

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

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

219 (c) Upon determining that the immigration detainer is in
220 accordance with s. 908.102(2), comply with the requests made in
221 the immigration detainer.

222 (2) A law enforcement agency is not required to perform a
223 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
224 respect to a person who is transferred to the custody of the
225 agency by another law enforcement agency if the transferring
226 agency performed that duty before the transfer.

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

231 908.106 Reimbursement of costs.—Each county correctional
232 facility shall enter into an agreement or agreements with a

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233 federal immigration agency for temporarily housing persons who
234 are the subject of immigration detainers and for the payment of
235 the costs of housing and detaining those persons. A compliant
236 agreement may include any contract between a correctional
237 facility and a federal immigration agency for housing or
238 detaining persons subject to immigration detainers, such as
239 basic ordering agreements in effect on or after July 1, 2019,
240 agreements authorized by section 287 of the Immigration and
241 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and
242 other similar agreements authorized by federal law.

243 908.107 Enforcement.—

244 (1) Any executive or administrative state, county, or
245 municipal officer who violates his or her duties under this
246 chapter may be subject to action by the Governor in the exercise
247 of his or her authority under the State Constitution and state
248 law. Pursuant to s. 1(b), Art. IV of the State Constitution, the
249 Governor may initiate judicial proceedings in the name of the
250 state against such officers to enforce compliance with any duty
251 under this chapter or restrain any unauthorized act contrary to
252 this chapter.

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

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

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

266 908.108 Education records.—This chapter does not apply to
267 the release of information contained in education records of an
268 educational agency or institution, except in conformity with the
269 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
270 1232g.

271 908.109 Discrimination prohibited.—A state entity, a local
272 governmental entity, or a law enforcement agency, or a person
273 employed by or otherwise under the direction or control of the
274 entity or agency, may not base its actions under this chapter on
275 the gender, race, religion, national origin, or physical
276 disability of a person except to the extent authorized by the
277 United States Constitution or the State Constitution.

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

282 Section 3. Section 908.107, Florida Statutes, as created by
283 this act, shall take effect October 1, 2019, and, except as
284 otherwise expressly provided in this act, this act shall take
285 effect July 1, 2019.