

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Smith, C. offered the following:

Amendment (with title amendment)

Remove lines 104-426 and insert:

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

(a) Complying with an immigration detainer;

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

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

19 (d) Participating in any program or agreement authorized
20 under s. 287 of the Immigration and Nationality Act, 8 U.S.C. s.
21 1357; or

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

24 (7) "Sanctuary policymaker" means a state or local elected
25 official or an appointed official of a local governmental entity
26 governing body who has voted for, allowed to be implemented, or
27 voted against repeal or prohibition of a sanctuary policy, or
28 who willfully engages in a pattern of noncooperation with a
29 federal immigration agency.

30 PART II

31 DUTIES

32 908.201 Sanctuary policies prohibited.—A law enforcement
33 agency or local governmental entity may not adopt or have in
34 effect a sanctuary policy.

35 908.202 Cooperation with federal immigration authorities.—

36 (1) A law enforcement agency shall use best efforts to
37 support the enforcement of federal immigration law. This
38 subsection applies to an official, representative, agent, or

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39 employee of the entity or agency only when he or she is acting
40 within the scope of his or her official duties or within the
41 scope of his or her employment.

42 (2) Except as otherwise expressly prohibited by federal
43 law, a local governmental entity or law enforcement agency may
44 not prohibit or in any way restrict a law enforcement agency
45 from taking any of the following actions with respect to
46 information regarding a person's immigration status:

47 (a) Sending the information to or requesting, receiving,
48 or reviewing the information from a federal immigration agency
49 for purposes of this chapter.

50 (b) Recording and maintaining the information for purposes
51 of this chapter.

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

55 (d) Using the information to comply with an immigration
56 detainer.

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

59 (3) (a) For purposes of this subsection the term
60 "applicable criminal case" means a criminal case in which:

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

63 2. The judge:

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64 a. Indicates in the record under s. 908.203 that the
65 defendant is subject to an immigration detainer; or

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

68 (b) In an applicable criminal case, when the judge
69 sentences a defendant who is the subject of an immigration
70 detainer to confinement, the judge shall issue an order
71 requiring the secure correctional facility in which the
72 defendant is to be confined to reduce the defendant's sentence
73 by a period of not more than 7 days on the facility's
74 determination that the reduction in sentence will facilitate the
75 seamless transfer of the defendant into federal custody. For
76 purposes of this paragraph, the term "secure correctional
77 facility" means a state correctional institution as defined in
78 s. 944.02 or a county detention facility or a municipal
79 detention facility as defined in s. 951.23.

80 (c) If the information specified in sub-subparagraph
81 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
82 the sentence is pronounced in the case, but is received by a law
83 enforcement agency afterwards, the law enforcement agency shall
84 notify the judge who shall issue the order described by
85 paragraph (b) as soon as the information becomes available.

86 (4) When a county correctional facility or the Department
87 of Corrections receives verification from a federal immigration
88 agency that a person subject to an immigration detainer is in

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89 the law enforcement agency's custody, the agency may securely
90 transport the person to a federal facility in this state or to
91 another point of transfer to federal custody outside the
92 jurisdiction of the law enforcement agency. However, the law
93 enforcement agency may transport the person who is subject to
94 the immigration detainer and confined in a secure correctional
95 facility only upon authorization by a court order unless the
96 transportation will occur within the 7 day period under
97 subsection (3). A law enforcement agency shall obtain judicial
98 authorization before securely transporting an alien to a point
99 of transfer outside of this state.

100 (5) This section does not require a local governmental
101 entity or law enforcement agency to provide a federal
102 immigration agency with information related to a victim of or a
103 witness to a criminal offense if the victim or witness timely
104 and in good faith responds to the entity's or agency's request
105 for information and cooperation in the investigation or
106 prosecution of the offense.

107 (6) A local governmental entity or law enforcement agency
108 that, pursuant to subsection (5), withholds information
109 regarding the immigration information of a victim of or witness
110 to a criminal offense shall document the victim's or witness's
111 cooperation in the entity's or agency's investigative records
112 related to the offense and shall retain the records for at least

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113 10 years for the purpose of audit, verification, or inspection
114 by the Auditor General.

115 908.203 Duties related to immigration detainers.—

116 (1) A law enforcement agency that has custody of a person
117 subject to an immigration detainer issued by a federal
118 immigration agency shall:

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

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

124 (c) Upon determining that the immigration detainer is in
125 accordance with s. 908.102(2), comply with the requests made in
126 the immigration detainer.

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

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

136 908.204 Reimbursement of costs.—Each county correctional
137 facility shall enter into an agreement or agreements with a

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

148 PART III

149 ENFORCEMENT

150 908.301 Complaints.—The Attorney General shall prescribe
151 and provide through the Department of Legal Affairs' website the
152 format for a person to submit a complaint alleging a violation
153 of this chapter. This section does not prohibit the filing of an
154 anonymous complaint or a complaint not submitted in the
155 prescribed format. Any person has standing to submit a complaint
156 under this chapter.

157 908.302 Enforcement; penalties.—

158 (1) The state attorney for the county in which a local
159 governmental entity or law enforcement agency is located has
160 primary responsibility and authority for investigating credible
161 complaints of a violation of this chapter. The results of an

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162 investigation by a state attorney shall be provided to the
163 Attorney General in a timely manner.

164 (2) (a) A local governmental entity or law enforcement
165 agency for which the state attorney has received a complaint
166 shall comply with a document request from the state attorney
167 related to the complaint.

168 (b) If the state attorney determines that a complaint
169 filed against a local governmental entity or law enforcement
170 agency is valid, the state attorney shall, not later than the
171 10th day after the date of the determination, provide written
172 notification to the entity that:

173 1. The complaint has been filed.

174 2. The state attorney has determined that the complaint is
175 valid.

176 3. The state attorney is authorized to file an action to
177 enjoin the violation if the entity does not come into compliance
178 with the requirements of this chapter on or before the 60th day
179 after the notification is provided.

180 (c) No later than the 30th day after the day a local
181 governmental entity receives written notification under
182 paragraph (b), the s local governmental entity shall provide the
183 state attorney with a copy of:

184 1. The entity's written policies and procedures with
185 respect to federal immigration agency enforcement actions,

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186 including the entity's policies and procedures with respect to
187 immigration detainers.

188 2. Each immigration detainer received by the entity from a
189 federal immigration agency in the current calendar year-to-date
190 and the two prior calendar years.

191 3. Each response sent by the entity for an immigration
192 detainer described by subparagraph 2.

193 (3) The Attorney General, the state attorney who conducted
194 the investigation, or a state attorney ordered by the Governor
195 pursuant to s. 27.14 may institute proceedings in circuit court
196 to enjoin a local governmental entity or law enforcement agency
197 found to be in violation of this chapter. Venue of an action
198 brought by the Attorney General may be in Leon County. The court
199 shall expedite an action under this section, including setting a
200 hearing at the earliest practicable date.

201 (4) Upon adjudication by the court or as provided in a
202 consent decree declaring that a local governmental entity or law
203 enforcement agency has violated this chapter, the court shall
204 enjoin the unlawful sanctuary policy and order that such entity
205 or agency pay a civil penalty to the state of at least \$1,000
206 but not more than \$5,000 for each day that the sanctuary policy
207 was in effect commencing on October 1, 2019, or the date the
208 sanctuary policy was first enacted, whichever is later, until
209 the date the injunction was granted. The court shall have
210 continuing jurisdiction over the parties and subject matter and

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211 may enforce its orders with imposition of additional civil
212 penalties as provided for in this section and contempt
213 proceedings as provided by law.

214 (5) An order approving a consent decree or granting an
215 injunction or civil penalties pursuant to subsection (4) must
216 include written findings of fact that describe with specificity
217 the existence and nature of the sanctuary policy in violation of
218 s. 908.201 and that identify each sanctuary policymaker who
219 voted for, allowed to be implemented, or voted against repeal or
220 prohibition of the sanctuary policy. The court shall provide a
221 copy of the consent decree or order granting an injunction or
222 civil penalties that contains the written findings required by
223 this subsection to the Governor within 30 days after the date of
224 rendition. A sanctuary policymaker identified in an order
225 approving a consent decree or granting an injunction or civil
226 penalties may be suspended or removed from office pursuant to
227 general law and s. 7, Art. IV of the State Constitution.

228 (6) A local governmental entity or law enforcement agency
229 ordered to pay a civil penalty pursuant to subsection (4) shall
230 remit payment to the Chief Financial Officer, who shall deposit
231 such payment into the General Revenue Fund.

232 (7) Except as required by law, public funds may not be
233 used to defend or reimburse a sanctuary policymaker or an
234 official, representative, agent, or employee of a local

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235 governmental entity or law enforcement agency who knowingly and
236 willfully violates this chapter.

237 908.303 Civil cause of action for personal injury or
238 wrongful death attributed to a sanctuary policy; trial by jury;
239 required written findings.-

240 (1) A person injured in this state by the tortious acts or
241 omissions of an alien unlawfully present in the United States,
242 or the personal representative of a person killed in this state
243 by the tortious acts or omissions of an alien unlawfully present
244 in the United States, has a cause of action for damages against
245 a local governmental entity or law enforcement agency in
246 violation of ss. 908.201 and 908.202 upon proof by the greater
247 weight of the evidence of:

248 (a) The existence of a sanctuary policy in violation of s.
249 908.201; and

250 (b)1. A failure to comply with a provision of s. 908.202
251 resulting in such alien's having access to the person injured or
252 killed when the tortious acts or omissions occurred; or

253 2. A failure to comply with a provision of s.
254 908.203(1)(c) resulting in such alien's having access to the
255 person injured or killed when the tortious acts or omissions
256 occurred.

257 (2) A cause of action brought pursuant to subsection (1)
258 may not be brought against a person who holds public office or
259 who has official duties as a representative, agent, or employee

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260 of a local governmental entity or law enforcement agency,
261 including a sanctuary policymaker.

262 (3) Trial by jury is a matter of right in an action
263 brought under this section.

264 (4) A final judgment entered in favor of a plaintiff in a
265 cause of action brought pursuant to this section must include
266 written findings of fact that describe with specificity the
267 existence and nature of the sanctuary policy in violation of s.
268 908.201 and that identify each sanctuary policymaker who voted
269 for, allowed to be implemented, or voted against repeal or
270 prohibition of the sanctuary policy. The court shall provide a
271 copy of the final judgment containing the written findings
272 required by this subsection to the Governor within 30 days after
273 the date of rendition. A sanctuary policymaker identified in a
274 final judgment may be suspended or removed from office pursuant
275 to general law and s. 7, Art. IV of the State Constitution.

276 (5) Except as provided in this section, this chapter does
277 not create a private cause of action against a local
278 governmental entity or law enforcement agency that complies with
279 this chapter.

280 908.304 Ineligibility for state grant funding.-

281 (1) Notwithstanding any other provision of law, a local
282 governmental entity or law enforcement agency shall be
283 ineligible to receive funding from non-federal grant programs
284 administered by state agencies that receive funding from the

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285 General Appropriations Act for a period of 5 years from the date
286 of adjudication that such local governmental entity or law
287 enforcement agency had in effect a sanctuary policy in violation
288 of this chapter.

289 (2) The Chief Financial Officer shall be notified by the
290 state attorney of an adjudicated violation of this chapter by a
291 local governmental entity or law enforcement agency and be
292 provided with a copy of the final court injunction, order, or
293 judgment. Upon receiving such notice, the Chief Financial
294 Officer shall timely inform all state agencies that administer
295 non-federal grant funding of the adjudicated violation by the
296 local governmental entity or law enforcement agency and direct
297 such agencies to cancel all pending grant applications and
298 enforce the ineligibility of such entity for the prescribed
299 period.

300 (3) This subsection does not apply to:

301 (a) Funding that is received as a result of an
302 appropriation to a specifically named local governmental entity
303 or law enforcement agency in the General Appropriations Act or
304 other law.

305 (b) Grants awarded before the date of adjudication that
306 such local governmental entity or law enforcement agency had in
307 effect a sanctuary policy in violation of this chapter.

308 PART IV

309 MISCELLANEOUS

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310 908.401 Education records.—This chapter does not apply to
311 the release of information contained in education records of an
312 educational agency or institution, except in conformity with the
313 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
314 1232g.

315 908.402 Discrimination prohibited.—A local governmental
316 entity or a law enforcement agency, or a person

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319 **T I T L E A M E N D M E N T**

320 Remove lines 6-7 and insert:
321 prohibiting sanctuary policies; requiring local
322 governmental entities and law enforcement agencies

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