

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
2 Representative Byrd offered the following:

Amendment (with title amendment)

Remove lines 59-438 and insert:

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

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

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

Amendment No.

17 immigration law. The term includes an official or employee of
18 such an agency.

19 (2) "Immigration detainer" means a facially sufficient
20 written or electronic request issued by a federal immigration
21 agency using that agency's official form to request that another
22 law enforcement agency detain a person based on probable cause
23 to believe that the person to be detained is a removable alien
24 under federal immigration law, including detainers issued
25 pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant
26 described in paragraph (c). For purposes of this subsection, an
27 immigration detainer is deemed facially sufficient if the
28 federal immigration agency supplies with its detention request a
29 Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant
30 of Removal/Deportation or a successor warrant or other warrant
31 authorized by federal law and:

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

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

420377 - h0527-line59.docx

Published On: 3/19/2019 7:16:14 PM

Amendment No.

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

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

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

55 (5) "Local governmental entity" means any county,
56 municipality, or other political subdivision of this state. The
57 term includes a person holding public office or having official
58 duties as a representative, agent, or employee of the entity.

59 (6) "Sanctuary policy" means a law, policy, practice,
60 procedure, or custom adopted or permitted by a state entity,
61 local governmental entity, or law enforcement agency which
62 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly
63 prohibits or impedes a law enforcement agency from communicating
64 or cooperating with a federal immigration agency with respect to
65 federal immigration enforcement, including, but not limited to,

Amendment No.

66 limiting a law enforcement agency in, or prohibiting such agency
67 from:

68 (a) Complying with an immigration detainer;

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

72 (c) Providing a federal immigration agency access to an
73 inmate for interview;

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

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

79 (7) "State entity" means the state or any office, board,
80 bureau, commission, department, branch, division, or institution
81 thereof, including institutions within the State University
82 System and the Florida College System. The term includes a
83 person holding public office or having official duties as a
84 representative, agent, or employee of the entity.

85 PART II

86 DUTIES

87 908.201 Sanctuary policies prohibited.—A state entity, law
88 enforcement agency, or local governmental entity may not adopt
89 or have in effect a sanctuary policy.

90 908.202 Cooperation with federal immigration authorities.—

Amendment No.

91 (1) A law enforcement agency shall use best efforts to
92 support the enforcement of federal immigration law. This
93 subsection applies to an official, representative, agent, or
94 employee of the entity or agency only when he or she is acting
95 within the scope of his or her official duties or within the
96 scope of his or her employment.

97 (2) Except as otherwise expressly prohibited by federal
98 law, a state entity, local governmental entity, or law
99 enforcement agency may not prohibit or in any way restrict a law
100 enforcement agency from taking any of the following actions with
101 respect to information regarding a person's immigration status:

102 (a) Sending the information to or requesting, receiving,
103 or reviewing the information from a federal immigration agency
104 for purposes of this chapter.

105 (b) Recording and maintaining the information for purposes
106 of this chapter.

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

110 (d) Using the information to comply with an immigration
111 detainer.

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

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

Amendment No.

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

118 2. The judge:

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

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

123 (b) In an applicable criminal case, when the judge
124 sentences a defendant who is the subject of an immigration
125 detainer to confinement, the judge shall issue an order
126 requiring the secure correctional facility in which the
127 defendant is to be confined to reduce the defendant's sentence
128 by a period of not more than 7 days on the facility's
129 determination that the reduction in sentence will facilitate the
130 seamless transfer of the defendant into federal custody. For
131 purposes of this paragraph, the term "secure correctional
132 facility" means a state correctional institution as defined in
133 s. 944.02 or a county detention facility or a municipal
134 detention facility as defined in s. 951.23.

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

420377 - h0527-line59.docx

Published On: 3/19/2019 7:16:14 PM

Amendment No.

141 (4) When a county correctional facility or the Department
142 of Corrections receives verification from a federal immigration
143 agency that a person subject to an immigration detainer is in
144 the law enforcement agency's custody, the agency may securely
145 transport the person to a federal facility in this state or to
146 another point of transfer to federal custody outside the
147 jurisdiction of the law enforcement agency. However, the law
148 enforcement agency may transport a person who is subject to an
149 immigration detainer and is confined in a secure correctional
150 facility only upon authorization by a court order unless the
151 transportation will occur within the 7 day period under
152 subsection (3). A law enforcement agency shall obtain judicial
153 authorization before securely transporting an alien to a point
154 of transfer outside of this state.

155 (5) This section does not require a state entity, local
156 governmental entity, or law enforcement agency to provide a
157 federal immigration agency with information related to a victim
158 of or a witness to a criminal offense if the victim or witness
159 timely and in good faith responds to the entity's or agency's
160 request for information and cooperation in the investigation or
161 prosecution of the offense.

162 (6) A state entity, local governmental entity, or law
163 enforcement agency that, pursuant to subsection (5), withholds
164 information regarding the immigration information of a victim of
165 or witness to a criminal offense shall document the victim's or

Amendment No.

166 witness's cooperation in the entity's or agency's investigative
167 records related to the offense and shall retain the records for
168 at least 10 years for the purpose of audit, verification, or
169 inspection by the Auditor General.

170 908.203 Duties related to immigration detainers.—

171 (1) A law enforcement agency that has custody of a person
172 subject to an immigration detainer issued by a federal
173 immigration agency shall:

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

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

179 (c) Upon determining that the immigration detainer is in
180 accordance with s. 908.102(2), comply with the requests made in
181 the immigration detainer.

182 (2) A law enforcement agency is not required to perform a
183 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
184 respect to a person who is transferred to the custody of the
185 agency by another law enforcement agency if the transferring
186 agency performed that duty before the transfer.

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

Amendment No.

191 908.204 Reimbursement of costs.—Each county correctional
192 facility shall enter into an agreement or agreements with a
193 federal immigration agency for temporarily housing persons who
194 are the subject of immigration detainers and for the payment of
195 the costs of housing and detaining those persons. A compliant
196 agreement may include any contract between a correctional
197 facility and a federal immigration agency for housing or
198 detaining persons subject to immigration detainers, such as
199 basic ordering agreements in effect on or after July 1, 2019,
200 agreements authorized by section 287 of the Immigration and
201 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and
202 other similar agreements authorized by federal law.

203 PART III

204 ENFORCEMENT

205 908.301 Complaints.—The Attorney General shall prescribe
206 and provide through the Department of Legal Affairs' website the
207 format for a person to submit a complaint alleging a violation
208 of this chapter. This section does not prohibit the filing of an
209 anonymous complaint or a complaint not submitted in the
210 prescribed format. Any person has standing to submit a complaint
211 under this chapter.

212 908.302 Enforcement; penalties.—

213 (1) The state attorney for the county in which a state
214 entity is headquartered or in which a local governmental entity
215 or law enforcement agency is located has primary responsibility

Amendment No.

216 and authority for investigating credible complaints of a
217 violation of this chapter. The results of an investigation by a
218 state attorney shall be provided to the Attorney General in a
219 timely manner.

220 (2) (a) A state entity, local governmental entity, or law
221 enforcement agency for which the state attorney has received a
222 complaint shall comply with a document request from the state
223 attorney related to the complaint.

224 (b) If the state attorney determines that a complaint
225 filed against a state entity, local governmental entity, or law
226 enforcement agency is valid, the state attorney shall, not later
227 than the 10th day after the date of the determination, provide
228 written notification to the entity that:

229 1. The complaint has been filed.

230 2. The state attorney has determined that the complaint is
231 valid.

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

236 (c) No later than the 30th day after the day a state
237 entity or local governmental entity receives written
238 notification under paragraph (b), the state entity or local
239 governmental entity shall provide the state attorney with a copy
240 of:

Amendment No.

241 1. The entity's written policies and procedures with
242 respect to federal immigration agency enforcement actions,
243 including the entity's policies and procedures with respect to
244 immigration detainers.

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

248 3. Each response sent by the entity for an immigration
249 detainer described by subparagraph 2.

250 (3) The Attorney General, the state attorney who conducted
251 the investigation, or a state attorney ordered by the Governor
252 pursuant to s. 27.14 may institute proceedings in circuit court
253 to enjoin a state entity, local governmental entity, or law
254 enforcement agency found to be in violation of this chapter.
255 Venue of an action brought by the Attorney General may be in
256 Leon County. The court shall expedite an action under this
257 section, including setting a hearing at the earliest practicable
258 date.

259 (4) Upon adjudication by the court or as provided in a
260 consent decree declaring that a state entity, local governmental
261 entity, or law enforcement agency has violated this chapter, the
262 court shall enjoin the unlawful sanctuary policy and order that
263 such entity or agency pay a civil penalty to the state of at
264 least \$1,000 but not more than \$5,000 for each day that the
265 sanctuary policy was in effect commencing on October 1, 2019, or

420377 - h0527-line59.docx

Published On: 3/19/2019 7:16:14 PM

Amendment No.

266 the date the sanctuary policy was first enacted, whichever is
267 later, until the date the injunction was granted. The court
268 shall have continuing jurisdiction over the parties and subject
269 matter and may enforce its orders with imposition of additional
270 civil penalties as provided for in this section and contempt
271 proceedings as provided by law.

272 (5) An order approving a consent decree or granting an
273 injunction or civil penalties pursuant to subsection (4) must
274 include written findings of fact that describe with specificity
275 the existence and nature of the sanctuary policy in violation of
276 s. 908.201 and that identify each sanctuary policymaker who
277 voted for, allowed to be implemented, or voted against repeal or
278 prohibition of the sanctuary policy. The court shall provide a
279 copy of the consent decree or order granting an injunction or
280 civil penalties that contains the written findings required by
281 this subsection to the Governor within 30 days after the date of
282 rendition. A sanctuary policymaker identified in an order
283 approving a consent decree or granting an injunction or civil
284 penalties may be suspended or removed from office pursuant to
285 general law and s. 7, Art. IV of the State Constitution.

286 (6) A state entity, local governmental entity, or law
287 enforcement agency ordered to pay a civil penalty pursuant to
288 subsection (4) shall remit payment to the Chief Financial
289 Officer, who shall deposit such payment into the General Revenue
290 Fund.

420377 - h0527-line59.docx

Published On: 3/19/2019 7:16:14 PM

Amendment No.

291 (7) Except as required by law, public funds may not be
292 used to defend or reimburse a sanctuary policymaker or an
293 official, representative, agent, or employee of a state entity,
294 local governmental entity, or law enforcement agency who
295 knowingly and willfully violates this chapter.

296 908.303 Civil cause of action for personal injury or
297 wrongful death attributed to a sanctuary policy; trial by jury;
298 required written findings.-

299 (1) A person injured in this state by the tortious acts or
300 omissions of an alien unlawfully present in the United States,
301 or the personal representative of a person killed in this state
302 by the tortious acts or omissions of an alien unlawfully present
303 in the United States, has a cause of action for damages against
304 a state entity, local governmental entity, or law enforcement
305 agency in violation of ss. 908.201 and 908.202 upon proof by the
306 greater weight of the evidence of:

307 (a) The existence of a sanctuary policy in violation of s.
308 908.201; and

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

312 2. A failure to comply with a provision of s.
313 908.203(1)(c) resulting in such alien's having access to the
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Amendment No.

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

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317 Remove lines 8-30 and insert:
318 enforcement agencies to use best efforts to support the
319 enforcement of federal immigration law; prohibiting
320 restrictions by the entities and agencies on taking certain
321 actions with respect to information regarding a person's
322 immigration status; defining the terms "applicable criminal
323 case" and "secure correctional facility"; providing
324 requirements concerning certain criminal defendants subject
325 to immigration detainers or otherwise subject to transfer
326 to federal custody; authorizing a law enforcement agency to
327 transport an alien unlawfully present in the United States
328 under certain circumstances; providing an exception to
329 reporting requirements; requiring recordkeeping in certain
330 investigations; specifying duties concerning immigration
331 detainers; requiring county correctional facilities to
332 enter agreements for payments for complying with
333 immigration detainers;