

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Joseph offered the following:

Amendment (with title amendment)

Remove lines 91-435 and insert:

(4) "Law enforcement agency" means a state agency in this state charged with enforcement of state laws or with managing custody of detained persons in the state, state police departments, state university and college police departments, and the Department of Corrections. The term includes an official or employee of such an agency.

(5) "Sanctuary policy" means a law, policy, practice, procedure, or custom adopted or permitted by a state entity or law enforcement agency which contravenes 8 U.S.C. s. 1373(a) or

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14 (b) or which knowingly prohibits or impedes a law enforcement
15 agency from communicating or cooperating with a federal
16 immigration agency with respect to federal immigration
17 enforcement, including, but not limited to, limiting a law
18 enforcement agency in, or prohibiting such agency from:

19 (a) Complying with an immigration detainer;

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

23 (c) Providing a federal immigration agency access to an
24 inmate for interview;

25 (d) Participating in any program or agreement authorized
26 under s. 287 of the Immigration and Nationality Act, 8 U.S.C. s.
27 1357; or

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

30 (6) "Sanctuary policymaker" means a state elected official
31 or an appointed official of a state entity governing body who
32 has voted for, allowed to be implemented, or voted against
33 repeal or prohibition of a sanctuary policy, or who willfully
34 engages in a pattern of noncooperation with a federal
35 immigration agency.

36 (7) "State entity" means the state or any office, board,
37 bureau, commission, department, branch, division, or institution
38 thereof, including institutions within the State University

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39 System and the Florida College System. The term includes a
40 person holding public office or having official duties as a
41 representative, agent, or employee of the entity.

42 PART II

43 DUTIES

44 908.201 Sanctuary policies prohibited.—A state entity or
45 law enforcement agency may not adopt or have in effect a
46 sanctuary policy.

47 908.202 Cooperation with federal immigration authorities.—

48 (1) A law enforcement agency shall use best efforts to
49 support the enforcement of federal immigration law. This
50 subsection applies to an official, representative, agent, or
51 employee of the entity or agency only when he or she is acting
52 within the scope of his or her official duties or within the
53 scope of his or her employment.

54 (2) Except as otherwise expressly prohibited by federal
55 law, a state entity, or law enforcement agency may not prohibit
56 or in any way restrict a law enforcement agency from taking any
57 of the following actions with respect to information regarding a
58 person's immigration status:

59 (a) Sending the information to or requesting, receiving,
60 or reviewing the information from a federal immigration agency
61 for purposes of this chapter.

62 (b) Recording and maintaining the information for purposes
63 of this chapter.

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64 (c) Exchanging the information with a federal immigration
65 agency or another state entity or law enforcement agency for
66 purposes of this chapter.

67 (d) Using the information to comply with an immigration
68 detainer.

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

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

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

75 2. The judge:

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

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

80 (b) In an applicable criminal case, when the judge
81 sentences a defendant who is the subject of an immigration
82 detainer to confinement, the judge shall issue an order
83 requiring the secure correctional facility in which the
84 defendant is to be confined to reduce the defendant's sentence
85 by a period of not more than 7 days on the facility's
86 determination that the reduction in sentence will facilitate the
87 seamless transfer of the defendant into federal custody. For
88 purposes of this paragraph, the term "secure correctional

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89 facility" means a state correctional institution as defined in
90 s. 944.02.

91 (c) If the information specified in sub-subparagraph
92 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time
93 the sentence is pronounced in the case, but is received by a law
94 enforcement agency afterwards, the law enforcement agency shall
95 notify the judge who shall issue the order described by
96 paragraph (b) as soon as the information becomes available.

97 (4) When the Department of Corrections receives
98 verification from a federal immigration agency that a person
99 subject to an immigration detainer is in the law enforcement
100 agency's custody, the agency may securely transport the person
101 to a federal facility in this state or to another point of
102 transfer to federal custody outside the jurisdiction of the law
103 enforcement agency. However, the law enforcement agency may
104 transport the person who is subject to the immigration detainer
105 and confined in a secure correctional facility only upon
106 authorization by a court order unless the transportation will
107 occur within the 7 day period under subsection (3). A law
108 enforcement agency shall obtain judicial authorization before
109 securely transporting an alien to a point of transfer outside of
110 this state.

111 (5) This section does not require a state entity or law
112 enforcement agency to provide a federal immigration agency with
113 information related to a victim of or a witness to a criminal

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114 offense if the victim or witness timely and in good faith
115 responds to the entity's or agency's request for information and
116 cooperation in the investigation or prosecution of the offense.

117 (6) A state entity or law enforcement agency that,
118 pursuant to subsection (5), withholds information regarding the
119 immigration information of a victim of or witness to a criminal
120 offense shall document the victim's or witness's cooperation in
121 the entity's or agency's investigative records related to the
122 offense and shall retain the records for at least 10 years for
123 the purpose of audit, verification, or inspection by the Auditor
124 General.

125 908.203 Duties related to immigration detainers.-

126 (1) A law enforcement agency that has custody of a person
127 subject to an immigration detainer issued by a federal
128 immigration agency shall:

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

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

134 (c) Upon determining that the immigration detainer is in
135 accordance with s. 908.102(2), comply with the requests made in
136 the immigration detainer.

137 (2) A law enforcement agency is not required to perform a
138 duty imposed by paragraph (1) (a) or paragraph (1) (b) with

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139 respect to a person who is transferred to the custody of the
140 agency by another law enforcement agency if the transferring
141 agency performed that duty before the transfer.

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

146 PART III

147 ENFORCEMENT

148 908.301 Complaints.—The Attorney General shall prescribe
149 and provide through the Department of Legal Affairs' website the
150 format for a person to submit a complaint alleging a violation
151 of this chapter. This section does not prohibit the filing of an
152 anonymous complaint or a complaint not submitted in the
153 prescribed format. Any person has standing to submit a complaint
154 under this chapter.

155 908.302 Enforcement; penalties.—

156 (1) The state attorney for the county in which a state
157 entity is headquartered or law enforcement agency is located has
158 primary responsibility and authority for investigating credible
159 complaints of a violation of this chapter. The results of an
160 investigation by a state attorney shall be provided to the
161 Attorney General in a timely manner.

162 (2) (a) A state entity or law enforcement agency for which
163 the state attorney has received a complaint shall comply with a

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164 document request from the state attorney related to the
165 complaint.

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

171 1. The complaint has been filed.

172 2. The state attorney has determined that the complaint is
173 valid.

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

178 (c) No later than the 30th day after the day a state
179 entity receives written notification under paragraph (b), the
180 state entity shall provide the state attorney with a copy of:

181 1. The entity's written policies and procedures with
182 respect to federal immigration agency enforcement actions,
183 including the entity's policies and procedures with respect to
184 immigration detainers.

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

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188 3. Each response sent by the entity for an immigration
189 detainer described by subparagraph 2.

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

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

211 (5) An order approving a consent decree or granting an
212 injunction or civil penalties pursuant to subsection (4) must

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

225 (6) A state entity or law enforcement agency ordered to
226 pay a civil penalty pursuant to subsection (4) shall remit
227 payment to the Chief Financial Officer, who shall deposit such
228 payment into the General Revenue Fund.

229 (7) Except as required by law, public funds may not be
230 used to defend or reimburse a sanctuary policymaker or an
231 official, representative, agent, or employee of a state entity
232 or law enforcement agency who knowingly and willfully violates
233 this chapter.

234 908.303 Civil cause of action for personal injury or
235 wrongful death attributed to a sanctuary policy; trial by jury;
236 required written findings.-

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

245 (a) The existence of a sanctuary policy in violation of s.
246 908.201; and

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

250 2. A failure to comply with a provision of s.
251 908.203(1)(c) resulting in such alien's having access to the
252 person injured or killed when the tortious acts or omissions
253 occurred.

254 (2) A cause of action brought pursuant to subsection (1)
255 may not be brought against a person who holds public office or
256 who has official duties as a representative, agent, or employee
257 of a state entity or law enforcement agency, including a
258 sanctuary policymaker.

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

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

273 (5) Except as provided in this section, this chapter does
274 not create a private cause of action against a state entity or
275 law enforcement agency that complies with this chapter.

276 908.304 Ineligibility for state grant funding.-

277 (1) Notwithstanding any other provision of law, a state
278 entity or law enforcement agency shall be ineligible to receive
279 funding from non-federal grant programs administered by state
280 agencies that receive funding from the General Appropriations
281 Act for a period of 5 years from the date of adjudication that
282 such state entity or law enforcement agency had in effect a
283 sanctuary policy in violation of this chapter.

284 (2) The Chief Financial Officer shall be notified by the
285 state attorney of an adjudicated violation of this chapter by a

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286 state entity or law enforcement agency and be provided with a
287 copy of the final court injunction, order, or judgment. Upon
288 receiving such notice, the Chief Financial Officer shall timely
289 inform all state agencies that administer non-federal grant
290 funding of the adjudicated violation by the state entity or law
291 enforcement agency and direct such agencies to cancel all
292 pending grant applications and enforce the ineligibility of such
293 entity for the prescribed period.

294 (3) This subsection does not apply to:

295 (a) Funding that is received as a result of an
296 appropriation to a specifically named state entity or law
297 enforcement agency in the General Appropriations Act or other
298 law.

299 (b) Grants awarded before the date of adjudication that
300 such state entity or law enforcement agency had in effect a
301 sanctuary policy in violation of this chapter.

302 PART IV

303 MISCELLANEOUS

304 908.401 Education records.—This chapter does not apply to
305 the release of information contained in education records of an
306 educational agency or institution, except in conformity with the
307 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
308 1232g.

309 908.402 Discrimination prohibited.—A state entity or a law
310 enforcement agency, or a person employed by or otherwise under

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311 the direction or control of such an entity, may not base its
312 actions under this chapter on the gender, race, religion,
313 national origin, or physical disability of a person except to
314 the extent permitted by the United States Constitution or the
315 state constitution.

316 Section 3. A sanctuary policy, as defined in s. 908.102,
317 Florida Statutes, as created by this act, that is in effect on
318 the effective date of this act must be repealed within 90 days
319 after that date.

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

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Remove lines 6-7 and insert:

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prohibiting sanctuary policies; requiring state

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entities and law enforcement agencies

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