

<b>Tab 1 SB 168 by Gruters (CO-INTRODUCERS) Bean; (Similar to H 00527) Federal Immigration Enforcement</b>						
246112	D	S	WD	JU, Simmons	Delete everything after	02/21 11:31 AM
446154	AA	S	WD	JU, Rodriguez	Delete L.30 - 43:	02/21 11:31 AM
585334	AA	S	WD	JU, Rodriguez	Delete L.60 - 76:	02/21 11:31 AM
706764	AA	S	WD	JU, Rodriguez	Delete L.87 - 167:	02/21 11:31 AM
738920	AA	S	WD	JU, Rodriguez	Delete L.108 - 119:	02/21 11:31 AM
428534	AA	S	WD	JU, Rodriguez	Delete L.159 - 173:	02/21 11:31 AM
449612	AA	S	WD	JU, Rodriguez	Delete L.174 - 200.	02/21 11:31 AM
134748	AA	S	WD	JU, Rodriguez	Delete L.222 - 242.	02/21 11:31 AM
715256	AA	S	WD	JU, Gruters	Delete L.238:	02/21 11:31 AM
465542	AA	S	WD	JU, Rodriguez	Delete L.256 - 260:	02/21 11:31 AM
941354	SD	S	WD	JU, Simmons	Delete everything after	02/21 11:31 AM
241924	ASA	S	WD	JU, Rodriguez	Delete L.31 - 44:	02/21 11:31 AM
946098	ASA	S	WD	JU, Rodriguez	Delete L.61 - 77:	02/21 11:31 AM
545528	ASA	S	WD	JU, Rodriguez	Delete L.109 - 120:	02/21 11:31 AM
828552	ASA	S	WD	JU, Rodriguez	Delete L.160 - 174:	02/21 11:31 AM
384212	D	S	WD	JU, Rodriguez	Delete everything after	02/21 11:31 AM
384318	D	S	RCS	JU, Gruters	Delete everything after	02/21 11:31 AM
106948	AA	S	UNFAV	JU, Rodriguez	Delete L.26 - 45:	02/21 11:31 AM
413924	AA	S	UNFAV	JU, Rodriguez	Delete L.63 - 79:	02/21 11:31 AM
616122	AA	S	UNFAV	JU, Rodriguez	Delete L.154 - 168:	02/21 11:31 AM
478986	AA	S	UNFAV	JU, Rodriguez	Delete L.219 - 223:	02/21 11:31 AM
170934	A	S	WD	JU, Rodriguez	Delete L.116 - 147:	02/21 11:31 AM
538004	A	S	WD	JU, Rodriguez	Delete L.126 - 142:	02/21 11:31 AM
803882	A	S	WD	JU, Rodriguez	Delete L.160 - 237:	02/21 11:31 AM
643696	A	S	WD	JU, Rodriguez	Delete L.181 - 192:	02/21 11:31 AM
722046	A	S	WD	JU, Rodriguez	Delete L.229 - 243:	02/21 11:31 AM
797868	A	S	WD	JU, Rodriguez	Delete L.244 - 270.	02/21 11:31 AM
748300	T	S	WD	JU, Gruters	In title, delete L.39:	02/21 11:31 AM

<b>Tab 2 SB 262 by Albritton; (Similar to H 00421) Child Welfare</b>						
406838	A	S	RCS	JU, Albritton	Delete L.65 - 427:	02/20 04:27 PM

<b>Tab 3 SB 598 by Albritton; Firearms</b>						
358568	A	S	RCS	JU, Albritton	Delete L.38 - 39:	02/20 04:46 PM

<b>Tab 4 SB 256 by Baxley; (Identical to H 00535) Child Protection Teams</b>						
162110	A	S		JU, Baxley	Delete L.57:	02/18 12:57 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**JUDICIARY**  
**Senator Simmons, Chair**  
**Senator Rodriguez, Vice Chair**

**MEETING DATE:** Tuesday, February 19, 2019  
**TIME:** 12:30—2:00 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Building*

**MEMBERS:** Senator Simmons, Chair; Senator Rodriguez, Vice Chair; Senators Baxley, Gibson, Hutson, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 168</b> Gruters (Similar H 527, Identical S 170)	Federal Immigration Enforcement; Citing this act as the "Rule of Law Adherence Act"; creating provisions relating to federal immigration enforcement; prohibiting sanctuary policies; requiring state entities, local governmental entities, and law enforcement agencies to comply with and support the enforcement of federal immigration law; authorizing local governmental entities and law enforcement agencies to petition the Federal Government for reimbursement of certain costs; providing whistle-blower protections for persons who report violations; requiring repeal of existing sanctuary policies within a specified period, etc.  JU 02/11/2019 Temporarily Postponed JU 02/19/2019 Fav/CS IS RC	Fav/CS Yeas 4 Nays 2
2	<b>SB 262</b> Albritton (Similar H 421)	Child Welfare; Providing for the name of a child's guardian ad litem or attorney ad litem to be entered on court orders in dependency proceedings; requiring cooperation between certain parties and the court to achieve permanency for a child as soon as possible; requiring the court during an adjudicatory hearing to advise parents in plain language of certain requirements to achieve reunification with their child, etc.  CF 02/04/2019 Favorable JU 02/19/2019 Fav/CS RC	Fav/CS Yeas 6 Nays 0
3	<b>SB 598</b> Albritton	Firearms; Authorizing a concealed weapon or concealed firearm licensee to carry a concealed firearm on the property of a religious institution during religious services or religious institution events when the property also contains a school; providing exceptions, etc.  JU 02/19/2019 Fav/CS CJ RC	Fav/CS Yeas 4 Nays 2

**COMMITTEE MEETING EXPANDED AGENDA**

Judiciary

Tuesday, February 19, 2019, 12:30—2:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 256</b> Baxley (Identical H 535)	Child Protection Teams; Revising the definition of the term "officer, employee, or agent," as it applies to immunity from personal liability in certain actions, to include any member of a child protection team established by the Department of Health in certain circumstances, etc.  CF 02/04/2019 Favorable JU 02/19/2019 Not Considered RC	Not Considered

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 168

INTRODUCER: Judiciary Committee and Senators Gruters and Bean

SUBJECT: Federal Immigration Enforcement

DATE: February 21, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Fav/CS
2.			IS	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 168 seeks to ensure that state and local entities and law enforcement agencies cooperate with federal government officials to enforce, and not obstruct, immigration laws. In its most general and broad terms, the bill prohibits sanctuary jurisdictions and requires state and local entities to comply with federal immigration detainers when they are supported by proper documentation.

In more specific terms, the bill:

- Prohibits a state entity, law enforcement agency, or local governmental entity, from having a sanctuary policy.
- Requires a covered government body to use its best efforts to support the enforcement of federal immigration law.
- Prohibits a state entity, local governmental entity, or law enforcement agency from restricting a law enforcement agency's ability to communicate or exchange information with a federal immigration agency on immigration enforcement matters.
- Provides procedures for a court to follow to reduce a defendant's sentence and thereby permit law enforcement agencies to transfer the defendant to a federal facility.
- Requires a law enforcement agency that has custody of someone who is subject to an immigration detainer to notify the judge of the detainer, record in the person's file the existence of the detainer, and comply with the detainer.
- Requires a county correctional facility to enter into an agreement with a federal immigration agency for the payment of costs associated with housing and detaining defendants.

- Permits the Attorney General to institute an action for a violation of this law or to prevent a violation of the law.
- Requires any sanctuary policies currently in effect be repealed within 90 days after the effective date of the act.

The bill takes effect July 1, 2019, except that the section establishing penalties takes effect October 1, 2019.

## II. Present Situation:

### General Overview

The Federal Government is responsible for both establishing and enforcing immigration laws. Congress has enacted legislation, which the federal courts have interpreted, and the body of immigration law has developed. The responsibility for enforcing immigration laws rests with the Division of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) and its Enforcement and Removal Operations (ERO). It is the mission of Enforcement and Removal Operations to identify, apprehend, and remove aliens who are a risk to national security or public safety, enter the country illegally, or seek to undermine the integrity of the country's immigration laws or border control efforts.<sup>1</sup> In order to carry out its mission, ICE depends, in part, on the assistance of local and state law enforcement agencies to identify removable aliens.<sup>2</sup> However, some state and local jurisdictions have chosen to expressly define or limit their roles in immigration enforcement and have become known as "sanctuary" jurisdictions. The critics of sanctuary jurisdictions argue that they limit law enforcement's abilities and encourage illegal immigration. Those who support sanctuary jurisdictions argue that they are necessary to prevent local law enforcement resources from being diverted to enforce immigration laws.<sup>3</sup>

### Federal Immigration Law

The Federal Government's authority to regulate immigration law is established in the United States Constitution. This power is extensive. The Constitution grants Congress the power to "establish an uniform Rule of Naturalization,"<sup>4</sup> and to "regulate Commerce with foreign Nations."<sup>5</sup> Additional authority is found in the Federal Government's broad powers over foreign affairs.<sup>6</sup>

The individual states are not granted similar powers under the Constitution and they may not encroach upon federal authority in this area. When states enact immigration laws, they are often challenged on the grounds that the law is preempted by federal law under the Supremacy Clause

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<sup>1</sup> U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations, Mission*, <https://www.ice.gov/ero>

<sup>2</sup> Congressional Research Service, *Sanctuary Jurisdictions and Criminal Aliens: In Brief* (Jan. 10, 2017), <https://www.everycrsreport.com/reports/R44118.html#Content>.

<sup>3</sup> *Id.*

<sup>4</sup> U.S. CONST. art. 1, s. 8, cl. 4.

<sup>5</sup> U.S. CONST. art. 1, s. 8, cl. 3.

<sup>6</sup> *Toll v. Moreno*, 458 U.S. 1 (1982).

of the Constitution.<sup>7</sup> The federal preemption doctrine is a principle of law which holds that federal laws take precedence over state laws, and as such, states may not enact laws that are inconsistent with the federal law.

Yet, the U.S. Supreme Court has noted that this vast federal power is not without limits. In *De Canas v. Bica*, a 1976 decision, the U.S. Supreme Court held that federal immigration law does not inherently preempt state court jurisdiction over all matters involving immigration issues. The Court noted that it has never held that every state statute “which in any way deals with aliens is a regulation of immigration and thus *per se* pre-empted by this constitutional power.”<sup>8</sup> In *Arizona v. United States*,<sup>9</sup> a 2012 U.S. Supreme Court ruling, the Court similarly stated that “In preemption analysis, courts should assume that ‘the historic police powers of the States’ are not superseded ‘unless that was the clear and manifest purpose of Congress.’”

### **Tenth Amendment and Anti-Commandeering Doctrine**

While the Federal Government has substantial authority to preempt state or local immigration regulations, the authority is restricted by the anti-commandeering principles of the Tenth Amendment.<sup>10</sup> Those principles prevent Congress from “commandeering” or forcing state or local governments to implement a federal regulatory program.<sup>11</sup> Some state and local jurisdictions have relied on this principle to avoid enforcing federal immigration policies and, as a result, have established sanctuary jurisdictions.<sup>12</sup>

### **Sanctuary Jurisdictions**

Although the term “sanctuary jurisdiction” is not defined in federal statute or regulation, it is generally understood to be a jurisdiction that has adopted a law or policy intended to significantly limit participation in the enforcement of federal immigration activities. States and municipalities have adopted varying degrees of sanctuary policies which have taken on multiple forms. Some jurisdictions have adopted “don’t enforce” policies in which law enforcement is restricted from cooperating with federal immigration authorities who are attempting to apprehend removable aliens. Other jurisdictions have adopted “don’t ask” policies that restrict law enforcement officials from inquiring about someone’s immigration status. Yet other entities

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<sup>7</sup> U.S. CONST. art. 6. The Supremacy Clause states that the Constitution and federal laws “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.”

<sup>8</sup> *De Canas v. Bica*, 424 U.S. 351, 355 (1976).

<sup>9</sup> *Arizona v. United States*, 567 U.S. 387, 400 (2012). See also *United States v. California*, 314 F. Supp. 3d 1077, 1085 (E.D. Cal. 2018)

<sup>10</sup> The Tenth Amendment to the United States Constitution provides “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

<sup>11</sup> *New York v. U.S.*, 505 U.S. 144, 188 (1992). In weighing whether a federal law that created incentives for states to dispose of low-level radioactive waste violated the anti-commandeering doctrine the Court held, “Whatever the outer limits of that sovereignty may be, one thing is clear: The Federal Government may not compel the States to enact or administer a federal regulatory program.” See also *Printz v. United States*, 521 U.S. 898 (1997). The Court has also held that every federal requirement imposed on state or local entities is not necessarily a violation of the anti-commandeering doctrine. Some federal statutes that require states to collect and report information to federal agencies are acceptable. *Reno v. Condon*, 528 U.S. 141 (2000).

<sup>12</sup> Sarah S. Herman, Congressional Research Service, *State and Local “Sanctuary” Policies Limiting Participation in Immigration Enforcement* (March 23, 2017), <https://fas.org/sgp/crs/homsec/R44795.pdf>.

have adopted “don’t tell” policies that restrict local law enforcement officials from sharing information with federal immigration officials. These last measures are primarily directed at preventing federal immigration officials from relying on the information to identify and arrest for removal aliens who are unlawfully present. Some jurisdictions have even adopted policies that prevent law enforcement officials from alerting federal immigration officials about the release status of aliens who are incarcerated.<sup>13</sup>

### Sanctuary Jurisdictions in Florida

It is difficult to determine how many sanctuary jurisdictions, if any, exist in Florida because organizations use different criteria for making their determinations. For example, the Federation for American Immigration Reform (FAIR) released a list of sanctuary jurisdictions in May 2018 which stated that, as of April 2018, 12 counties and 3 cities qualified as Florida sanctuary jurisdictions.<sup>14</sup> The Center for Immigration Studies provided a list of sanctuary jurisdictions, updated October 2018, which stated that Alachua and Clay Counties were sanctuary jurisdictions.<sup>15</sup>

Perhaps one of the most objective ways to measure whether an entity is a sanctuary jurisdiction is to determine whether it is disqualified from receiving federal criminal justice grant funds due to perceived violations of federal immigration law. Those violations generally involve limiting or restricting communication and information between a state or local entity and the Department of Homeland Security (DHS) about an immigrant’s status or release. The Florida Department of Law Enforcement (FDLE) serves as the state administering agency for the federal Byrne Justice Assistance Grant Program.<sup>16</sup> According to FDLE and the U.S. Department of Justice (DOJ), Office of Justice Programs, applicants that seek grant funding<sup>17</sup> from the Department of Justice must submit specific certifications from the attorney general and the chief executive officer, which is either the governor or mayor, stating that the applicant complies with 8 U.S.C. s. 1373<sup>18</sup>

<sup>13</sup> *Id.*

<sup>14</sup> Federation for American Immigration Reform, *Sanctuary Jurisdictions Nearly Double Since President Trump Promised to Enforce Our Immigration Laws*, 52-55 (May 2018), <http://www.fairus.org/sites/default/files/2018-05/Sanctuary-Report-FINAL-2018.pdf>. FAIR stated that it drew its information from resolutions, ordinances, and policy directives as well as secondary sources. At that time, and not necessarily currently, the counties listed were Alachua, Bradford, Broward, Flagler, Gulf, Highlands, Leon, Palm Beach, Seminole, St. Lucie, Volusia, and Washington. The cities were Key West, St. Petersburg, and West Palm Beach.

<sup>15</sup> Center for Immigration Studies, *Fact Sheet, Sanctuary Cities, Counties, and States* (Oct. 2018), <https://cis.org/Fact-Sheet/Sanctuary-Cities>.

<sup>16</sup> Email from Rona Kay Cradit, Bureau Chief, Office of Criminal Justice Grants, Florida Department of Law Enforcement (Feb. 5, 2019) (on file with the Senate Committee on Judiciary).

<sup>17</sup> The grants are Edward Byrne Memorial Justice Assistance Grant program, funded through the U.S. Department of Justice, the largest source of criminal justice grant funding.

<sup>18</sup> The requirements of 8 U.S.C. s. 1373 have been found unconstitutional by federal district courts with respect to the jurisdictions in those cases. However, the issues in those cases are under appeal. See *State of New York v. Department of Justice*, 343 F.Supp.3d 213, (S.D.N.Y. 2018), *appeal docketed*, No. 19-275 (2nd Cir. Jan. 28, 2019). The text of 8 U.S.C s. 1373 is as follows:

**§1373. Communication between government agencies and the Immigration and Naturalization Service**

**(a) In general**

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to,

and does not restrict communications between state and local agencies and DHS entities regarding someone's citizenship or immigration status. Beginning in 2017, the Office of Justice Programs added two requirements for applicants to receive grant funding: an award recipient must permit DHS access to correctional and detention facilities to meet with an alleged alien to inquire about his or her right to be in the country; and an award recipient must also provide DHS a minimum of 48 hours' advance notice concerning the scheduled release time and date of someone in the jurisdiction's custody when DHS requests that notice in order to take the person into custody.<sup>19</sup>

As of February 5, 2019, FDLE has received 188 executed attorney general certifications and 111 executed chief executive officer certifications from county and municipal governments.<sup>20</sup> In essence, these entities are stating that they comply with federal law and do not limit, restrict, or prohibit the exchange of information between governmental entities, agencies, or persons concerning the citizenship or immigration status of a person. This is the criteria many groups use to determine what constitutes a sanctuary jurisdiction.

Only one Florida municipality, the City of West Palm Beach, appeared on a compliance review list released by DOJ in January 2018.<sup>21</sup> The city was required to submit documentation to the Department of Justice demonstrating whether its employees could communicate with DOJ, DHS, ICE, or their agents.<sup>22</sup> The City of West Palm Beach now appears on the current FDLE list of jurisdictions that have submitted certifications stating that it is in compliance with federal immigration laws.

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or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

**(b) Additional authority of government entities**

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2) Maintaining such information.
- (3) Exchanging such information with any other Federal, State, or local government entity.

**(c) Obligation to respond to inquiries**

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

<sup>19</sup> U.S. Department of Justice, Office of Justice Programs, *Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements – FY 2017 Awards; Alert: New Requirements for Certain FY 2017 Programs* (2017), <https://ojp.gov/funding/Explore/SolicitationRequirements/index.htm>.

<sup>20</sup> See Email from Rona Kay Credit, *supra* note 16.

<sup>21</sup> *Id.*

<sup>22</sup> Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, Correspondence to the City of West Palm Beach, p. 25-26 (Jan. 24, 2018), <https://www.justice.gov/opa/press-release/file/1028311/download>.



## Immigration Law and Removals

The Federal Government, through immigration law,<sup>23</sup> seeks to control the number and type of aliens who are granted permission to enter, remain in the United States, and become citizens. Just as the Federal Government has established criteria for entering the country, it has also established formal criteria and procedures for removing or deporting an alien from this country who has violated the immigration laws. An alien may be removed for a number of reasons, including entering the country illegally, remaining longer than a visa authorizes, committing marriage fraud to obtain entry, or committing certain crimes.<sup>24</sup>

## Immigration Detainers

An immigration detainer is a notice that the Department of Homeland Security issues to a law enforcement agency, whether federal, state, or local, to notify the agency that Immigration and Customs Enforcement (ICE) intends to take custody of someone in the custody of that law enforcement agency. A copy of the federal detainer form currently used by the Department of Homeland Security appears at the end of this analysis.<sup>25</sup>

A detainer serves three purposes:

- To serve notice to a law enforcement agency that ICE intends to take custody of an alien who is in the agency's custody once he or she is no longer subject to that agency's detention;
- To request information from the law enforcement agency concerning the alien's upcoming release so that ICE may gain custody before the alien is released; and
- To request a law enforcement agency to maintain custody, for no more than 48 hours, of an alien who otherwise would be released in order to permit ICE enough time to assume custody. The 48 hour period excludes Saturday, Sundays, and holidays.<sup>26</sup>

According to U.S. Immigration and Customs Enforcement, detainers are an essential tool ICE needs to identify and remove criminal aliens who are currently in the custody of federal, state, or local law enforcement. ICE is dependent on state and local law enforcement to cooperate and partner with them in this effort.<sup>27</sup>

Whether to comply with a federal immigration detainer has been a challenging issue for local law enforcement agencies. For many years, sheriffs' offices simply honored detainers and provided the requested information about the detention or upcoming release of someone held in custody. In 2014, this changed. Two federal court cases<sup>28</sup> questioned the legality of detaining an

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<sup>23</sup> The Immigration and Nationality Act of 1952 and its amendments contain the current body of immigration law. It is contained in 8 U.S.C.A., Title 8 – Aliens and Nationality.

<sup>24</sup> 8 U.S.C. s. 1227.

<sup>25</sup> DHS Form I-247A.

<sup>26</sup> *Ice Detainers: Frequently Asked Questions*, U.S. Immigration and Customs Enforcement (Dec. 28, 2011), <https://www.ice.gov/ice-detainers-frequently-asked-questions>.

<sup>27</sup> *Id.* The authority to issue a detainer stems from federal regulations found at 8 C.F.R. § 287.7, which arises from the Secretary's power under the Immigration and Nationality Act § 103(a)(3), 8 U.S.C. 1103(a)(3), to issue "regulations ... necessary to carry out [her] authority" under the INA, and from ICE's general authority to detain individuals who are subject to removal or removal proceedings."

<sup>28</sup> *Galarza v. Szalczyk*, 745 F. 3d 634 (3d Cir. 2014) and *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 WL 1414305 (D. Ore. April 11, 2014).

inmate based solely upon a detainer from ICE when there was no accompanying probable cause to support the detention.<sup>29</sup> In both cases the plaintiffs were detained pursuant to ICE detention orders. Information was provided to the counties which indicated that investigations were being undertaken to learn whether the plaintiffs were candidates for removal and deportation. Both counties were ultimately held civilly liable for an unlawful seizure, even though the counties complied with a federal regulation cited in the detainer form that gave them the apparent authority to detain the inmates. Not surprisingly, ICE detainers have been interpreted by federal courts to be requests, not mandatory commands that deprive an agency of any discretion whether to detain an alien. In *Galarza*, the court noted that under the Tenth Amendment, immigration officials may not command state and local officials to imprison suspected aliens, because doing so would be inconsistent with the anti-commandeering principle of the Tenth Amendment.<sup>30</sup>

### **New Enforcement Policy Between ICE and 29 Florida Sheriffs**

On January 17, 2018, the U.S. Immigration and Customs Enforcement office issued a news release announcing that 17 basic ordering agreements had been agreed to with sheriffs around the state. The number of agreements is now at 29.<sup>31</sup> These agreements detail “a new process to clarify that aliens held by these jurisdictions are held under the color of federal authority.” As such, the local law enforcement jurisdictions receive “liability protection from potential litigation as a result of faithfully executing their public safety duties.” The news release stated that sheriffs will no longer have to choose between releasing criminal illegal aliens from their custody back into the community or exposing themselves to potential civil liability for violating the alien’s civil rights. The participating sheriffs will also receive compensation for complying with the detainers.<sup>32</sup>

### **Texas Legislation and Litigation**

In 2017, Texas enacted SB 4, a law that, among other things, prohibited local authorities from restricting their cooperation or communication with federal immigration enforcement officials and directed local law enforcement to comply with ICE detainer requests.<sup>33</sup> Several cities moved for preliminary injunctive relief before the bill became effective. The plaintiffs challenged the bill in Federal District Court on the grounds of federal preemption and violations of First Amendment free speech and Fourth Amendment search and seizure protections.<sup>34</sup> The court granted a preliminary injunction preventing several sections of the law from taking effect. The state appealed to the U.S. Court of Appeals for the Fifth Circuit and requested a stay of each injunction. The Fifth Circuit ultimately upheld the majority of the statute.<sup>35</sup> In a lengthy decision the court determined that:

- Texas was not preempted from enacting the legislation;

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<sup>29</sup> Florida Sheriffs Association, *Legal Alert: ICE Detainers* (on file with the Senate Committee on Judiciary).

<sup>30</sup> *Galarza*, 745 F. 3d at 643.

<sup>31</sup> Email from Matt Dunagan, Deputy Executive Director of Operations, Florida Sheriffs Association (Feb. 7, 2019) (on file with the Senate committee on Judiciary).

<sup>32</sup> U.S. Immigration and Customs Enforcement, News Releases, *ICE, 17 FL Sheriffs Announce New Enforcement Partnership* (Jan. 17, 2018) <https://www.ice.gov/news/releases/ice-17-fl-sheriffs-announce-new-enforcement-partnership>.

<sup>33</sup> *Texas Senate Bill 4* (2017-2018), <https://legiscan.com/TX/bill/SB4/2017>.

<sup>34</sup> *City of El Cenizo, et al., v. State of Texas, et. al.*, 264 F. Supp. 3d 744 (2017).

<sup>35</sup> *City of El Cenizo, et al., v. State of Texas, et al.*, 890 F. 3d 164 (2018).

- A requirement that law enforcement agencies comply with an immigration detainer request when the agency had custody of a person who was the subject of the detainer was not facially unconstitutional;
- The Fourth Amendment prohibition against unlawful search and seizure did not require probable cause of criminality in order to detain someone in the context of immigration law; and
- The Texas constitution did not prevent the state from pre-empting the home-rule authority of cities when it passed the law.

The *City of El Cenizo* opinion, the case upholding Texas SB 4, has been somewhat distinguished by other cases, one of which is a Florida federal district case in Miami that is still in the discovery stage.<sup>36</sup> In that case, the plaintiffs, comprised of aliens and immigrant advocacy groups, brought an action against Miami-Dade County and alleged that the county violated their civil rights under the Fourth Amendment when it arrested them based upon an ICE detainer request and without probable cause to believe that they had committed a crime. Miami-Dade County moved to dismiss the plaintiffs' case. The court concluded that it "does not find the analysis in *EL Cenizo* persuasive or helpful . . ." and ruled that the plaintiffs had alleged enough facts under the Fourth Amendment to withstand a complete motion to dismiss. This case is ongoing.

### III. Effect of Proposed Changes:

CS/SB 168 seeks to ensure that state and local entities and law enforcement agencies cooperate with the Federal Government to enforce, and not obstruct, immigration laws. In its most general terms, the bill prohibits sanctuary jurisdictions and requires state and local entities to comply with federal immigration detainers.

#### **Findings and Intent (s. 908.101, F.S.)**

The Legislature finds that it is an important state interest to cooperate and assist the Federal Government as it seeks to enforce federal immigration laws throughout the state.

#### **Sanctuary Policies are Prohibited (s. 908.103, F.S.)**

A state entity, law enforcement agency, or local governmental entity is prohibited from adopting or having a sanctuary policy. A sanctuary policy is generally defined as a law or policy which contravenes 8 U.S.C. s. 1373(a) or (b), by:

- Prohibiting or restricting information between a federal, state, or local government agency and the Immigration and Naturalization Service regarding the citizenship or immigration status of an individual; or
- Prohibiting or restricting a Federal, state, or local government entity from sending, requesting, receiving, maintaining, or exchanging information regarding the immigration status of an individual to, or from, the Immigration and Naturalization Service.

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<sup>36</sup> *C.F.C. et al., v. Miami-Dade County*, 2018 WL 6616030.

Additionally, a sanctuary policy means a policy which knowingly prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency with regard to federal immigration enforcement, including, but not limited to, limiting or preventing a law enforcement agency from:

- Complying with an immigration detainer;
- Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in its custody;
- Providing a federal immigration agency access to an inmate for an interview;
- Participating in any program or agreement authorized under section 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357;<sup>37</sup> or
- Providing a federal immigration agency with an inmate's incarceration status or release date.

### **Cooperation with Federal Immigration Authorities (s. 908.104, F.S.)**

A law enforcement agency must use its best efforts to support the enforcement of federal immigration law. However, this requirement only applies to an official, representative, agent, or employee when he or she is acting within the scope of official duties or scope of employment.

The bill prohibits a state entity, local governmental entity, or law enforcement agency, except where provided by federal law, from restricting a law enforcement agency's ability to:

- Send information regarding a person's immigration status to, or requesting, receiving, or reviewing that information from a federal immigration agency;
- Record and maintain immigration status information for purposes of the act;
- Exchange immigration status information with a federal immigration agency, state entity, local governmental entity, or law enforcement agency;
- Use the immigration information to comply with an immigration detainer; or
- Use the immigration information to confirm the identity of a person who is detained by a law enforcement agency.

### ***Criminal Cases***

The bill requires a judge in a criminal case to order a secure correctional facility where the defendant is to be confined to reduce a defendant's sentence by not more than 7 days if the facility determines that the reduction will facilitate the defendant's seamless transfer into federal custody if he or she is subject to an immigration detainer. The judge must indicate on the record that the defendant is subject to an immigration detainer or otherwise indicate that the defendant is subject to transfer into federal custody when making the order. If a judge does not have this information at the time of sentencing, but a law enforcement agency receives the information after sentencing, the law enforcement agency must notify the judge and he or she must issue the order to the secure correctional facility as soon as the information becomes available.

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<sup>37</sup> This program, known as the 287(g) program, is a partnership venture that involves a delegation of federal authority to a state or local law enforcement entity. The program allows the state or local entity to enter into a memorandum of agreement, thereby forming a partnership with ICE, to permit designated law enforcement officers, who are specially trained and supervised, to perform the functions of immigration law enforcement within their respective jurisdictions. The ICE website states that the sheriff's offices of Clay, Collier, Hernando, and Pasco counties, as well as the Jacksonville Sheriff's Office, have these mutually signed agreements in force. U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act* (rev. July 10, 2018), <https://www.ice.gov/287g>.

### ***Transport***

When a county correctional facility or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in its custody the agency may securely transport the person to a federal facility in this state or to a point of transfer to federal custody outside the jurisdiction of the agency. However, the law enforcement agency may transport the alien only when authorized by a court order unless the transportation will happen within the 7 day time period mentioned above. The law enforcement agency must first obtain judicial authorization before transporting the alien outside of the state.

### ***Victims or Witnesses***

The cooperation and support requirements in this section do not require a state entity, local governmental entity, or law enforcement agency to provide a federal immigration agency with information related to a victim or witness to a criminal offense if the victim or witness timely cooperates in good faith in the investigation or prosecution of the crime. A victim or witness's cooperation must be documented in the entity's or agency's investigative records, and the entity or agency must retain the records for at least 10 years for the purposes of audit, verification, or inspection by the Auditor General.

### **Duties Related to Immigration Detainers (s. 908.105 F.S.)**

The bill establishes the duties of a law enforcement agency when it has custody of someone subject to an immigration detainer. If an agency has custody of a person subject to a detainer, the agency must:

- Inform the judge who is authorized to grant or deny bail that the person is subject to a detainer;
- Record the detainer information in the person's case file; and
- Comply with the requests made in the detainer after determining that the detainer is consistent with the requirements set forth in s. 908.102, F.S., as explained above.

A law enforcement agency is not required to perform the three duties listed above for a person who is transferred from another law enforcement agency if the previous agency performed the duty before transferring custody. Additionally, a judge who receives notice that someone is subject to an immigration detainer must cause the detainer information is recorded in the court record, regardless of whether the detainer notice is received before or after a judgment is rendered in the case.

### **Reimbursement of Costs (s. 908.106, F.S.)**

The bill requires each county correctional facility to enter into an agreement with a federal immigration agency for the temporarily housing and payment of the costs of persons who are the subject of immigration detainers. Those agreements may be basic ordering agreements, agreements authorized by section 287 of the Immigration and Nationality Act<sup>38</sup> or successor or similar acts.

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<sup>38</sup> See note 37 *supra*.

**Enforcement (s. 908.107, F.S.)**

The bill authorizes the Attorney General to institute a civil action against any state entity, local government entity, or law enforcement agency for a violation of this law or to prevent a violation of the law. The civil action may be an action for an injunction or any other appropriate orders or relief.

When a court determines, either through adjudication or a consent decree, that a state entity, local governmental entity, or law enforcement agency has violated this act, the court must enjoin the unlawful sanctuary policy. The court retains continuing jurisdiction over the parties and subject matter and may initiate contempt proceedings to enforce its orders. An order that approves a consent decree or grants an injunction must contain written findings of fact that specifically describe the sanctuary policy that violates the prohibition against sanctuary jurisdictions.

**Education Records (s. 908.108, F.S.)**

The bill provides that it does not apply to the release of education records of an educational agency or institution, unless that release conforms to the provisions of the Family Educational Rights and Privacy Act of 1974. For purposes of that act, education records mean those records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for the agency or institution. Education records do not include records of instructional, supervisory, and administrative personnel, records maintained by a law enforcement unit of the educational agency or institution, certain employment records for people who are not in attendance at the agency or institution, and medical or psychological records used in treating a student.<sup>39</sup>

**Discrimination Is Prohibited (s. 908.109, F.S.)**

The bill prohibits discrimination based upon a person's gender, race, religion, national origin, or physical disability, except as authorized by the United States Constitution or State Constitution.

**Repeal of Sanctuary Policies Required (Section 2)**

Any sanctuary policy, as defined in the bill, in effect on the effective date of the act must be repealed within 90 days after the act's effective date.

**Effective Dates**

The act takes effect on July 1, 2019, but the section pertaining to enforcement contained in s. 908.107, F.S., takes effect on October 1, 2019.

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<sup>39</sup> 20 U.S.C. 1232g(a)(4)(A) and (B).

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

It appears that the bill, by requiring counties and municipalities to comply with immigration detainers, requires a “county or municipality to spend funds or to take an action requiring the expenditure of funds” as described in Article VII, section 18 of the Florida Constitution.

Article VII, section 18, subsection (a) of the Florida Constitution provides in part that a county or municipality may *not* be bound by a general law requiring the county or municipality to spend funds or to take an action that requires the expenditure of funds unless the law fulfills an important state interest and a listed exception is met.

Additionally, Article VII, section 18, subsection (d) provides eight exemptions, which, if any single one is met, exempt the law from the limitations on mandates. One of the exemptions applies when the law has an “insignificant fiscal impact.” At this time, whether the fiscal impact is insignificant or significant cannot be known. The bill requires each county correctional facility to enter into an agreement with a federal immigration agency for the payment of the costs of temporarily housing and detaining persons who are the subject of an immigration detainer. It is unknown if these agreements will completely cover the costs of detaining people. Many sheriffs’ offices have already entered into basic ordering agreements with the Federal Government and are reimbursed for housing inmates, pursuant to a detainer, at a rate of \$50 for up to 48 hours of detention. If the person is not held for very long, arguably, the sheriff’s office could profit, depending on what it costs to hold someone. If, in contrast, a person is held for the full 48 hours, the costs might result in a loss, depending on what reimbursement costs are negotiated. There is no data available yet to answer this concern.

Article VII, section 18, subsection (a) also provides that a mandate may be binding if the Legislature determines that the law fulfills an important state interest and is approved by two-thirds vote of the membership in each house. If the bill does have a significant fiscal impact and another exemption or exception in Article VII, section 18 does not apply, the bill must be approved by two-thirds vote of each chamber to be binding upon the counties and municipalities.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

This bill has provisions that are similar to Texas Senate Bill 4, enacted in 2017. That bill among other things, prohibited local authorities from restricting cooperation or communication with federal immigration enforcement officials and directed local law enforcement agencies to comply with ICE detainers.<sup>40</sup> Several cities moved for preliminary injunctive relief before the bill became effective, alleging that the bill violated Fourth Amendment search and seizure protections among other things.<sup>41</sup> When the case, *City of El Cenizo v. State of Texas*, reached the U.S. Court of Appeals for the Fifth Circuit, the court upheld the majority of the statute.<sup>42</sup> In a lengthy decision, the court determined that:

- Texas was not preempted by federal law from enacting the legislation;
- A requirement that law enforcement agencies comply with an immigration detainer when the agency had custody of a person who was the subject of the detainer was not facially unconstitutional; and
- The Fourth Amendment prohibition against unlawful search and seizure did not require probable cause of criminality in order to detain someone in the context of immigration law.

Notwithstanding the Fifth Circuit's *El Cenizo* opinion, there are a number of federal court opinions holding that ICE detainers alone are not sufficient authority for a state or local government entity to detain a person. However, many of these cases may be distinguishable from litigation that may result from SB 168.

The main distinguishing feature may be the fact that the cases predate significant changes to ICE detainer policies made in April 2017. Under the new policies, ICE detainers must be accompanied by an administrative arrest warrant and include a probable cause determination.<sup>43</sup> Other court opinions involving ICE detainers have found that local law enforcement agencies were without authority under state law to comply with an immigration detainer. But, SB 168 clearly authorizes compliance with immigration detainers and ICE warrants.

Nonetheless, a federal district court in Miami in *C.F.C. v. Miami-Dade County* issued an "Order on Defendant's Motion to Dismiss" in which the court determined that "Plaintiffs have alleged plausible facts to support their contention that the County violated their Fourth Amendment rights when it arrested [them] based on a detainer and without probable cause that either of them had committed a crime."<sup>44</sup> This case, however, is not final and it remains in the discovery stage.

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<sup>40</sup> *Texas Senate Bill 4* (2017-2018), <https://legiscan.com/TX/bill/SB4/2017>.

<sup>41</sup> *City of El Cenizo, et al., v. State of Texas, et al.*, 264 F. Supp. 3d 744 (2017).

<sup>42</sup> *City of El Cenizo, et al., v. State of Texas, et al.*, 890 F. 3d 164 (2018).

<sup>43</sup> *Creedle v. Miami-Dade County*, 349 F.Supp.3d 1276, at \*9 (S.D. Fla. 2018).

<sup>44</sup> *C.F.C. v. Miami-Dade County*, 349 F.Supp.3d 1236 (S.D. Fla. 2018).



**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The underlying bill contained a chapter title, “Federal Immigration Enforcement,” that was deleted in the committee substitute. Because a new chapter 908 is being created with this act, it would be beneficial to add a chapter title to the bill.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 908.101, 908.102, 908.103, 908.104, 908.105, 908.106, 908.107, 908.108, and 908.109.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on February 19, 2019:**

The committee substitute significantly reduces the scope of the underlying bill. The committee substitute removes the provisions pertaining to: the duty of a law enforcement agency to determine an arrested person’s immigration status at the time of booking; the duty of officials to report violations of the act and the ensuing possibility that they might be suspended or removed from office for not reporting violations; the requirement that the Attorney General provide a format for complaints alleging violations of the act; the responsibility of the state attorney to investigate and pursue complaints of violations; financial penalties for having sanctuary policies; the creation of a civil cause of action for injuries or wrongful death attributed to a sanctuary policy; and the ineligibility of entities to receive state grant funding if the entity had a sanctuary policy in effect. The committee substitute adds a provision that requires agencies to enter into agreements with federal entities to recover costs for detaining aliens. The committee substitute also adds a provision specifying that a detainer must be accompanied by a particular form of federal warrant to be sufficient.

B. Amendments:

None.

DEPARTMENT OF HOMELAND SECURITY  
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID:  
Event #:

File No:  
Date:

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)

FROM: (Department of Homeland Security Office Address)

Name of Alien: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Citizenship: \_\_\_\_\_ Sex: \_\_\_\_\_

**1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2).**

- A final order of removal against the alien;
- The pendency of ongoing removal proceedings against the alien;
- Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

**2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).**

- Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

**IT IS THEREFORE REQUESTED THAT YOU:**

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling  U.S. Immigration and Customs Enforcement (ICE) or  U.S. Customs and Border Protection (CBP) at \_\_\_\_\_. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-8020.
  - **Maintain custody** of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
  - Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
  - Notify this office in the event of the alien's death, hospitalization or transfer to another institution.
- If checked: please cancel the detainer related to this alien previously submitted to you on \_\_\_\_\_ (date).

\_\_\_\_\_  
(Name and title of Immigration Officer)

\_\_\_\_\_  
(Signature of Immigration Officer) (Sign In Ink)

**Notice:** If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-8020. You may also call this number if you have any other questions or concerns about this matter.

**TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:**

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to \_\_\_\_\_ .

Local Booking/Inmate #: \_\_\_\_\_ Estimated release date/time: \_\_\_\_\_

Date of latest criminal charge/conviction: \_\_\_\_\_ Last offense charged/conviction: \_\_\_\_\_

This form was served upon the alien on \_\_\_\_\_, in the following manner:

- in person
- by inmate mail delivery
- other (please specify): \_\_\_\_\_

\_\_\_\_\_  
(Name and title of Officer)

\_\_\_\_\_  
(Signature of Officer) (Sign In Ink)



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Simmons) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Short title.—This act may be cited as the "Rule  
of Law Adherence Act."

Section 2. Chapter 908, Florida Statutes, consisting of  
sections 908.101-908.402, is created to read:

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



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12 immigration laws within this state.

13 908.102 Definitions.—As used in this chapter, the term:

14 (1) "Federal immigration agency" means the United States  
15 Department of Justice and the United States Department of  
16 Homeland Security, a division within such an agency, including  
17 United States Immigration and Customs Enforcement and United  
18 States Customs and Border Protection, any successor agency, and  
19 any other federal agency charged with the enforcement of  
20 immigration law. The term includes an official or employee of  
21 such an agency.

22 (2) "Immigration detainer" means a facially sufficient  
23 written or electronic request issued by a federal immigration  
24 agency using that agency's official form to request that another  
25 law enforcement agency detain a person based on probable cause  
26 to believe that the person to be detained is a removable alien  
27 under federal immigration law, including detainers issued  
28 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this  
29 subsection, an immigration detainer is deemed facially  
30 sufficient if:

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

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



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

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

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

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

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

67 (a) Complying with an immigration detainer;

68 (b) Complying with a request from a federal immigration  
69 agency to notify the agency before the release of an inmate or



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70 detainee in the custody of the state entity, local governmental  
71 entity, or law enforcement agency;

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

74 (d) Initiating an immigration status investigation; or

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

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

83 908.201 Sanctuary policies prohibited.—A state entity, law  
84 enforcement agency, or local governmental entity may not adopt  
85 or have in effect a sanctuary policy.

86 908.202 Cooperation with federal immigration authorities.—

87 (1) A state entity, local governmental entity, or law  
88 enforcement agency shall fully comply with and, to the full  
89 extent permitted by law, support the enforcement of federal  
90 immigration law. This subsection applies to an official,  
91 representative, agent, or employee of the entity or agency only  
92 when he or she is acting within the scope of his or her official  
93 duties or within the scope of his or her employment.

94 (2) Except as otherwise expressly prohibited by federal  
95 law, a state entity, local governmental entity, or law  
96 enforcement agency may not prohibit or in any way restrict  
97 another state entity, local governmental entity, or law  
98 enforcement agency from taking any of the following actions with



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99 respect to information regarding a person's immigration status:

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

103 (b) Recording and maintaining the information for purposes  
104 of this chapter.

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

108 (d) Using the information to determine eligibility for a  
109 public benefit, service, or license pursuant to federal or state  
110 law or an ordinance or regulation of a local governmental  
111 entity.

112 (e) Using the information to verify a claim of residence or  
113 domicile if a determination of residence or domicile is required  
114 under federal or state law, an ordinance or regulation of a  
115 local governmental entity, or a judicial order issued pursuant  
116 to a civil or criminal proceeding in this state.

117 (f) Using the information to comply with an immigration  
118 detainer.

119 (g) Using the information to confirm the identity of a  
120 person who is detained by a law enforcement agency.

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

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

125 2. The judge:

126 a. Indicates in the record under s. 908.204 that the  
127 defendant is subject to an immigration detainer; or





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

130 (b) In an applicable criminal case, at the time of  
131 pronouncement of a sentence of confinement, the judge shall  
132 issue an order requiring the secure correctional facility in  
133 which the defendant is to be confined to reduce the defendant's  
134 sentence by a period of not more than 7 days on the facility's  
135 determination that the reduction in sentence will facilitate the  
136 seamless transfer of the defendant into federal custody. For  
137 purposes of this paragraph, the term "secure correctional  
138 facility" means a state correctional institution as defined in  
139 s. 944.02 or a county detention facility or a municipal  
140 detention facility as defined in s. 951.23.

141 (c) If the information specified in sub-subparagraph  
142 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
143 the sentence is pronounced in the case, the judge shall issue  
144 the order described by paragraph (b) as soon as the information  
145 becomes available.

146 (4) When a law enforcement agency receives verification  
147 from a federal immigration agency that an alien in the law  
148 enforcement agency's custody is unlawfully present in the United  
149 States, the agency may securely transport the alien to a federal  
150 facility in this state or to another point of transfer to  
151 federal custody outside the jurisdiction of the law enforcement  
152 agency. However, the law enforcement agency may transport an  
153 alien who is confined in a secure correctional facility only  
154 upon authorization by a court order unless the transportation  
155 will occur within the 7 day period under subsection (3). A law  
156 enforcement agency shall obtain judicial authorization before



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157 securely transporting an alien to a point of transfer outside of  
158 this state.

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

166 (6) A state entity, local governmental entity, or law  
167 enforcement agency that, pursuant to subsection (5), withholds  
168 information regarding the immigration information of a victim of  
169 or witness to a criminal offense shall document the victim's or  
170 witness's cooperation in the entity's or agency's investigative  
171 records related to the offense and shall retain the records for  
172 at least 10 years for the purpose of audit, verification, or  
173 inspection by the Auditor General.

174 908.203 Duties related to certain arrested persons.-

175 (1) If a person is arrested and is unable to provide proof  
176 of his or her lawful presence in the United States, not later  
177 than 48 hours after the person is arrested, and before the  
178 person is released on bond, a law enforcement agency performing  
179 the booking process:

180 (a) Shall review any information available from a federal  
181 immigration agency.

182 (b) If information obtained under paragraph (a) reveals  
183 that the person is not a citizen of the United States and is  
184 unlawfully present in the United States according to the terms  
185 of the federal Immigration and Nationality Act, 8 U.S.C. ss.



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186 1101 et seq., must:

187 1. Provide prompt notice of the person's arrest and charges  
188 to a federal immigration agency.

189 2. Provide notice of that fact to the judge authorized to  
190 grant or deny the person's release on bail under chapter 903.

191 3. Record the person's arrest and charges in the person's  
192 case file.

193 (2) A law enforcement agency is not required to perform the  
194 duty imposed by subsection (1) with respect to a person who is  
195 transferred to the custody of the agency by another law  
196 enforcement agency if the transferring agency performed that  
197 duty before the transfer.

198 (3) A judge who receives notice of a person's immigration  
199 status under this section shall cause the status to be recorded  
200 in the court record.

201 908.204 Duties related to immigration detainees.-

202 (1) A law enforcement agency that has custody of a person  
203 subject to an immigration detainer issued by a federal  
204 immigration agency shall:

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

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

210 (c) Upon determining that the immigration detainer is in  
211 accordance with subsection (2), comply with the requests made in  
212 the immigration detainer.

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



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215 respect to a person who is transferred to the custody of the  
216 agency by another law enforcement agency if the transferring  
217 agency performed that duty before the transfer.

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

222 908.205 Reimbursement of costs.—

223 (1) A board of county commissioners may adopt an ordinance  
224 requiring a person detained pursuant to an immigration detainer  
225 to reimburse the county for any expenses incurred in detaining  
226 the person pursuant to the immigration detainer. A person  
227 detained pursuant to an immigration detainer is not liable under  
228 this section if a federal immigration agency determines that the  
229 immigration detainer was improperly issued.

230 (2) A local governmental entity or law enforcement agency  
231 shall enter into an agreement for payment for detaining aliens  
232 and complying with federal requests when the costs are incurred  
233 in support of the enforcement of federal immigration law.  
234 Compliant agreements include any basic ordering agreements  
235 between the U.S. Immigration and Customs Enforcement and state  
236 and local law enforcement agencies in effect on July 1, 2019, or  
237 similar agreements and other agreements authorized by federal  
238 law. If the payments are not made within 90 days from the  
239 submission of an invoice, the local government or law  
240 enforcement agency may suspend its cooperation pending payment  
241 but shall immediately resume the cooperation upon payment by the  
242 federal government of the amounts.

243 908.302 Enforcement.—



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244       (1) Upon adjudication by the court or as provided in a  
245 consent decree declaring that a state entity, local governmental  
246 entity, or law enforcement agency has violated this chapter, the  
247 court shall enjoin the unlawful sanctuary policy and may award  
248 reasonable costs and attorney fees to the plaintiff. The court  
249 has continuing jurisdiction over the parties and subject matter  
250 and may enforce its orders with the initiation of contempt  
251 proceedings as provided by law.

252       (2) An order approving a consent decree or granting an  
253 injunction must include written findings of fact that describe  
254 with specificity the existence and nature of the sanctuary  
255 policy that is in violation of s. 908.201.

256       908.401 Education records.—This chapter does not apply to  
257 the release of information contained in education records of an  
258 educational agency or institution, except in conformity with the  
259 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
260 1232g.

261       908.402 Discrimination prohibited.—A state entity, a local  
262 governmental entity, or a law enforcement agency, or a person  
263 employed by or otherwise under the direction or control of the  
264 entity or agency, may not base its actions under this chapter on  
265 the gender, race, religion, national origin, or physical  
266 disability of a person except to the extent authorized by the  
267 United States Constitution or the State Constitution.

268       Section 3. A sanctuary policy, as defined in s. 908.102,  
269 Florida Statutes, as created by this act, that is in effect on  
270 the effective date of this act violates the public policy of  
271 this state and must be repealed within 90 days after that date.

272       Section 4. Section 908.302, Florida Statutes, as created by



273 this act, shall take effect October 1, 2019, and, except as  
274 otherwise expressly provided in this act, this act shall take  
275 effect July 1, 2019.

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

277 And the title is amended as follows:

278 Delete everything before the enacting clause  
279 and insert:

280 A bill to be entitled  
281 An act relating to federal immigration enforcement;  
282 providing a short title; creating chapter 908, F.S.,  
283 relating to federal immigration enforcement; providing  
284 legislative findings and intent; providing  
285 definitions; prohibiting sanctuary policies; requiring  
286 state entities, local governmental entities, and law  
287 enforcement agencies to comply with and support the  
288 enforcement of federal immigration law; prohibiting  
289 restrictions by the entities and agencies on taking  
290 certain actions with respect to information regarding  
291 a person's immigration status; providing requirements  
292 concerning certain criminal defendants subject to  
293 immigration detainers or otherwise subject to transfer  
294 to federal custody; authorizing a law enforcement  
295 agency to transport an alien unlawfully present in the  
296 United States under certain circumstances; providing  
297 an exception to reporting requirements for crime  
298 victims or witnesses; requiring recordkeeping relating  
299 to crime victim and witness cooperation in certain  
300 investigations; specifying duties concerning certain  
301 arrested persons; specifying duties concerning



246112

302 immigration detainers; requiring local government  
303 entities and law enforcement agencies to enter  
304 agreements for payments for complying with immigration  
305 detainers; providing for injunctive relief and awards  
306 of costs and attorney fees to prevailing plaintiffs;  
307 providing for applicability to certain education  
308 records; prohibiting discrimination on specified  
309 grounds; providing for implementation; requiring  
310 repeal of existing sanctuary policies within a  
311 specified period; providing effective dates.  
312



446154

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

- 1       **Senate Amendment to Amendment (246112)**
- 2
- 3       Delete lines 30 - 43
- 4       and insert:
- 5       sufficient if accompanied by a valid judicial warrant.





585334

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (246112)**

2

3           Delete lines 60 - 76

4           and insert:

5           contravenes 8 U.S.C. s. 1373(a).



706764

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (246112) (with title**  
2 **amendment)**

3  
4           Delete lines 87 - 167  
5 and insert:

6           (1) Except as otherwise expressly prohibited by federal  
7 law, a state entity, local governmental entity, or law  
8 enforcement agency may not prohibit or in any way restrict  
9 another state entity, local governmental entity, or law  
10 enforcement agency from taking any of the following actions with



706764

11 respect to information regarding a person's immigration status:  
12 (a) Sending the information to or requesting, receiving, or  
13 reviewing the information from a federal immigration agency for  
14 purposes of this chapter.  
15 (b) Recording and maintaining the information for purposes  
16 of this chapter.  
17 (c) Exchanging the information with a federal immigration  
18 agency or another state entity, local governmental entity, or  
19 law enforcement agency for purposes of this chapter.  
20 (d) Using the information to determine eligibility for a  
21 public benefit, service, or license pursuant to federal or state  
22 law or an ordinance or regulation of a local governmental  
23 entity.  
24 (e) Using the information to verify a claim of residence or  
25 domicile if a determination of residence or domicile is required  
26 under federal or state law, an ordinance or regulation of a  
27 local governmental entity, or a judicial order issued pursuant  
28 to a civil or criminal proceeding in this state.  
29 (f) Using the information to comply with an immigration  
30 detainer.  
31 (g) Using the information to confirm the identity of a  
32 person who is detained by a law enforcement agency.  
33 (2) (a) For purposes of this subsection the term "applicable  
34 criminal case" means a criminal case in which:  
35 1. The judgment requires the defendant to be confined in a  
36 secure correctional facility; and  
37 2. The judge:  
38 a. Indicates in the record under s. 908.204 that the  
39 defendant is subject to an immigration detainer; or



706764

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

42 (b) In an applicable criminal case, at the time of  
43 pronouncement of a sentence of confinement, the judge shall  
44 issue an order requiring the secure correctional facility in  
45 which the defendant is to be confined to reduce the defendant's  
46 sentence by a period of not more than 7 days on the facility's  
47 determination that the reduction in sentence will facilitate the  
48 seamless transfer of the defendant into federal custody. For  
49 purposes of this paragraph, the term "secure correctional  
50 facility" means a state correctional institution as defined in  
51 s. 944.02 or a county detention facility or a municipal  
52 detention facility as defined in s. 951.23.

53 (c) If the information specified in sub-subparagraph  
54 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
55 the sentence is pronounced in the case, the judge shall issue  
56 the order described by paragraph (b) as soon as the information  
57 becomes available.

58 (3) When a law enforcement agency receives verification  
59 from a federal immigration agency that an alien in the law  
60 enforcement agency's custody is unlawfully present in the United  
61 States, the agency may securely transport the alien to a federal  
62 facility in this state or to another point of transfer to  
63 federal custody outside the jurisdiction of the law enforcement  
64 agency. However, the law enforcement agency may transport an  
65 alien who is confined in a secure correctional facility only  
66 upon authorization by a court order unless the transportation  
67 will occur within the 7 day period under subsection (2). A law  
68 enforcement agency shall obtain judicial authorization before



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69 securely transporting an alien to a point of transfer outside of  
70 this state.

71 (4) This section does not require a state entity, local  
72 governmental entity, or law enforcement agency to provide a  
73 federal immigration agency with information related to a victim  
74 of or a witness to a criminal offense if the victim or witness  
75 timely and in good faith responds to the entity's or agency's  
76 request for information and cooperation in the investigation or  
77 prosecution of the offense.

78 (5) A state entity, local governmental entity, or law  
79 enforcement agency that, pursuant to subsection (4), withholds

80  
81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete lines 285 - 289

84 and insert:

85 definitions; prohibiting certain restrictions by state  
86 entities, local governmental entities, and law  
87 enforcement agencies on taking



738920

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment to Amendment (246112)**

Delete lines 108 - 119  
and insert:

(d) Using the information to verify a claim of residence or domicile if a determination of residence or domicile is required under federal or state law, an ordinance or regulation of a local governmental entity, or a judicial order issued pursuant to a civil or criminal proceeding in this state.

(e) Using the information to comply with an immigration



738920

11 detainer.

12 (f) Using the information to confirm the identity of a



428534

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (246112) (with title**  
2 **amendment)**

3  
4           Delete lines 159 - 173  
5 and insert:

6           (5) A state entity, local governmental entity, or law  
7 enforcement agency implementing the Rule of Law Adherence Act  
8 has an affirmative duty to inquire whether or not a person is a  
9 victim of or a witness to a criminal offense, and if so, the  
10 victim or the witness may not be subject to this act.





428534

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

And the title is amended as follows:

    Delete lines 296 - 300

and insert:

    United States under certain circumstances; providing  
    that certain entities or agencies have an affirmative  
    duty to inquire whether or not a person is a victim of  
    or a witness to a criminal offense, and if so,  
    prohibiting them from being subject to the act;  
    specifying duties concerning certain



449612

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (246112) (with title**  
2 **amendment)**

3  
4           Delete lines 174 - 200.

5  
6 ===== T I T L E   A M E N D M E N T =====

7 And the title is amended as follows:

8           Delete lines 300 - 301

9 and insert:

10           investigations; specifying duties concerning



134748

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (246112) (with title**  
2 **amendment)**

3  
4           Delete lines 222 - 242.

5  
6 ===== T I T L E   A M E N D M E N T =====

7 And the title is amended as follows:

8           Delete lines 302 - 305

9 and insert:

10           immigration detainers; providing for injunctive relief



134748

11

and awards



715256

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Gruters) recommended the following:

**Senate Amendment to Amendment (246112)**

1  
2  
3 Delete line 238  
4 and insert:  
5 law. If the payments are not made within 180 days from the



465542

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment to Amendment (246112)**

Delete lines 256 - 260

and insert:

908.401 Education records.-

(1) This chapter does not apply to the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g.

(2) This chapter does not apply to any state entity, local



465542

11 governmental entity, or law enforcement agency involved in  
12 education or educational activities.



941354

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Simmons) recommended the following:

1           **Senate Substitute for Amendment (246112) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Short title.—This act may be cited as the “Rule  
7 of Law Adherence Act.”

8           Section 2. Chapter 908, Florida Statutes, consisting of  
9 sections 908.101-908.402, is created to read:

10           908.101 Legislative findings and intent.—The Legislature  
11 finds that it is an important state interest to cooperate and





941354

12 assist the federal government in the enforcement of federal  
13 immigration laws within this state.

14 908.102 Definitions.—As used in this chapter, the term:

15 (1) "Federal immigration agency" means the United States  
16 Department of Justice and the United States Department of  
17 Homeland Security, a division within such an agency, including  
18 United States Immigration and Customs Enforcement and United  
19 States Customs and Border Protection, any successor agency, and  
20 any other federal agency charged with the enforcement of  
21 immigration law. The term includes an official or employee of  
22 such an agency.

23 (2) "Immigration detainer" means a facially sufficient  
24 written or electronic request issued by a federal immigration  
25 agency using that agency's official form to request that another  
26 law enforcement agency detain a person based on probable cause  
27 to believe that the person to be detained is a removable alien  
28 under federal immigration law, including detainers issued  
29 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this  
30 subsection, an immigration detainer is deemed facially  
31 sufficient if:

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



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41 other official documentation that indicates that the federal  
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, and the Department of Corrections. The term  
53 includes an official or employee of such an agency.

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

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

68 (a) Complying with an immigration detainer;

69 (b) Complying with a request from a federal immigration



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70 agency to notify the agency before the release of an inmate or  
71 detainee in the custody of the state entity, local governmental  
72 entity, or law enforcement agency;

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

75 (d) Initiating an immigration status investigation; or

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

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

84 908.201 Sanctuary policies prohibited.—A state entity, law  
85 enforcement agency, or local governmental entity may not adopt  
86 or have in effect a sanctuary policy.

87 908.202 Cooperation with federal immigration authorities.—

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

95 (2) Except as otherwise expressly prohibited by federal  
96 law, a state entity, local governmental entity, or law  
97 enforcement agency may not prohibit or in any way restrict  
98 another state entity, local governmental entity, or law



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99 enforcement agency from taking any of the following actions with  
100 respect to information regarding a person's immigration status:

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

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

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

109 (d) Using the information to determine eligibility for a  
110 public benefit, service, or license pursuant to federal or state  
111 law or an ordinance or regulation of a local governmental  
112 entity.

113 (e) Using the information to verify a claim of residence or  
114 domicile if a determination of residence or domicile is required  
115 under federal or state law, an ordinance or regulation of a  
116 local governmental entity, or a judicial order issued pursuant  
117 to a civil or criminal proceeding in this state.

118 (f) Using the information to comply with an immigration  
119 detainer.

120 (g) Using the information to confirm the identity of a  
121 person who is detained by a law enforcement agency.

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

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

126 2. The judge:

127 a. Indicates in the record under s. 908.204 that the



941354

128 defendant is subject to an immigration detainer; or  
129 b. Otherwise indicates in the record that the defendant is  
130 subject to a transfer into federal custody.  
131 (b) In an applicable criminal case, at the time of  
132 pronouncement of a sentence of confinement, the judge shall  
133 issue an order requiring the secure correctional facility in  
134 which the defendant is to be confined to reduce the defendant's  
135 sentence by a period of not more than 7 days on the facility's  
136 determination that the reduction in sentence will facilitate the  
137 seamless transfer of the defendant into federal custody. For  
138 purposes of this paragraph, the term "secure correctional  
139 facility" means a state correctional institution as defined in  
140 s. 944.02 or a county detention facility or a municipal  
141 detention facility as defined in s. 951.23.  
142 (c) If the information specified in sub-subparagraph  
143 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
144 the sentence is pronounced in the case, the judge shall issue  
145 the order described by paragraph (b) as soon as the information  
146 becomes available.  
147 (4) When a law enforcement agency receives verification  
148 from a federal immigration agency that an alien in the law  
149 enforcement agency's custody is unlawfully present in the United  
150 States, the agency may securely transport the alien to a federal  
151 facility in this state or to another point of transfer to  
152 federal custody outside the jurisdiction of the law enforcement  
153 agency. However, the law enforcement agency may transport an  
154 alien who is confined in a secure correctional facility only  
155 upon authorization by a court order unless the transportation  
156 will occur within the 7 day period under subsection (3). A law



941354

157 enforcement agency shall obtain judicial authorization before  
158 securely transporting an alien to a point of transfer outside of  
159 this state.

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

167 (6) A state entity, local governmental entity, or law  
168 enforcement agency that, pursuant to subsection (5), withholds  
169 information regarding the immigration information of a victim of  
170 or witness to a criminal offense shall document the victim's or  
171 witness's cooperation in the entity's or agency's investigative  
172 records related to the offense and shall retain the records for  
173 at least 10 years for the purpose of audit, verification, or  
174 inspection by the Auditor General.

175 908.203 Duties related to certain arrested persons.-

176 (1) If a person is arrested and is unable to provide proof  
177 of his or her lawful presence in the United States, not later  
178 than 48 hours after the person is arrested, and before the  
179 person is released on bond, a law enforcement agency performing  
180 the booking process:

181 (a) Shall review any information available from a federal  
182 immigration agency.

183 (b) If information obtained under paragraph (a) reveals  
184 that the person is not a citizen of the United States and is  
185 unlawfully present in the United States according to the terms



941354

186 of the federal Immigration and Nationality Act, 8 U.S.C. ss.  
187 1101 et seq., unless good cause is shown in the furtherance of  
188 safety and law enforcement practices, must:

189 1. Provide prompt notice of the person's arrest and charges  
190 to a federal immigration agency.

191 2. Provide notice of that fact to the judge authorized to  
192 grant or deny the person's release on bail under chapter 903.

193 3. Record the person's arrest and charges in the person's  
194 case file.

195 (2) A law enforcement agency is not required to perform the  
196 duty imposed by subsection (1) with respect to a person who is  
197 transferred to the custody of the agency by another law  
198 enforcement agency if the transferring agency performed that  
199 duty before the transfer.

200 (3) A judge who receives notice of a person's immigration  
201 status under this section shall cause the status to be recorded  
202 in the court record.

203 908.204 Duties related to immigration detainers.—

204 (1) A law enforcement agency that has custody of a person  
205 subject to an immigration detainer issued by a federal  
206 immigration agency shall:

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

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

212 (c) Upon determining that the immigration detainer is in  
213 accordance with s. 908.102(2), comply with the requests made in  
214 the immigration detainer.



941354

215 (2) A law enforcement agency is not required to perform a  
216 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
217 respect to a person who is transferred to the custody of the  
218 agency by another law enforcement agency if the transferring  
219 agency performed that duty before the transfer.

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

224 908.205 Reimbursement of costs.—

225 (1) A board of county commissioners may adopt an ordinance  
226 requiring a person detained pursuant to an immigration detainer  
227 to reimburse the county for any expenses incurred in detaining  
228 the person pursuant to the immigration detainer. A person  
229 detained pursuant to an immigration detainer is not liable under  
230 this section if a federal immigration agency determines that the  
231 immigration detainer was improperly issued.

232 (2) A local governmental entity or law enforcement agency  
233 shall enter into an agreement for payment for detaining aliens  
234 and complying with federal requests when the costs are incurred  
235 in support of the enforcement of federal immigration law.  
236 Compliant agreements include any basic ordering agreements  
237 between the U.S. Immigration and Customs Enforcement and state  
238 and local law enforcement agencies in effect on July 1, 2019, or  
239 similar agreements and other agreements authorized by federal  
240 law.

241 908.302 Enforcement.—

242 (1) Upon adjudication by the court or as provided in a  
243 consent decree declaring that a state entity, local governmental





941354

244 entity, or law enforcement agency has violated this chapter, the  
245 court shall enjoin the unlawful sanctuary policy and may award  
246 reasonable costs and attorney fees to the plaintiff. The court  
247 has continuing jurisdiction over the parties and subject matter  
248 and may enforce its orders with the initiation of contempt  
249 proceedings as provided by law.

250 (2) An order approving a consent decree or granting an  
251 injunction must include written findings of fact that describe  
252 with specificity the existence and nature of the sanctuary  
253 policy that is in violation of s. 908.201.

254 908.401 Education records.—This chapter does not apply to  
255 the release of information contained in education records of an  
256 educational agency or institution, except in conformity with the  
257 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
258 1232g.

259 908.402 Discrimination prohibited.—A state entity, a local  
260 governmental entity, or a law enforcement agency, or a person  
261 employed by or otherwise under the direction or control of the  
262 entity or agency, may not base its actions under this chapter on  
263 the gender, race, religion, national origin, or physical  
264 disability of a person except to the extent authorized by the  
265 United States Constitution or the State Constitution.

266 Section 3. A sanctuary policy, as defined in s. 908.102,  
267 Florida Statutes, as created by this act, that is in effect on  
268 the effective date of this act violates the public policy of  
269 this state and must be repealed within 90 days after that date.

270 Section 4. Section 908.302, Florida Statutes, as created by  
271 this act, shall take effect October 1, 2019, and, except as  
272 otherwise expressly provided in this act, this act shall take



941354

273 effect July 1, 2019.

274

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

276 And the title is amended as follows:

277 Delete everything before the enacting clause

278 and insert:

279 A bill to be entitled

280 An act relating to federal immigration enforcement;  
281 providing a short title; creating chapter 908, F.S.,  
282 relating to federal immigration enforcement; providing  
283 legislative findings and intent; providing  
284 definitions; prohibiting sanctuary policies; requiring  
285 state entities, local governmental entities, and law  
286 enforcement agencies to use best efforts to support  
287 the enforcement of federal immigration law;  
288 prohibiting restrictions by the entities and agencies  
289 on taking certain actions with respect to information  
290 regarding a person's immigration status; providing  
291 requirements concerning certain criminal defendants  
292 subject to immigration detainers or otherwise subject  
293 to transfer to federal custody; authorizing a law  
294 enforcement agency to transport an alien unlawfully  
295 present in the United States under certain  
296 circumstances; providing an exception to reporting  
297 requirements for crime victims or witnesses; requiring  
298 recordkeeping relating to crime victim and witness  
299 cooperation in certain investigations; specifying  
300 duties concerning certain arrested persons; specifying  
301 duties concerning immigration detainers; requiring



941354

302 local government entities and law enforcement agencies  
303 to enter agreements for payments for complying with  
304 immigration detainers; providing for injunctive relief  
305 and awards of costs and attorney fees to prevailing  
306 plaintiffs; providing for applicability to certain  
307 education records; prohibiting discrimination on  
308 specified grounds; providing for implementation;  
309 requiring repeal of existing sanctuary policies within  
310 a specified period; providing effective dates.  
311



241924

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Substitute Amendment (941354)**

2

3           Delete lines 31 - 44

4           and insert:

5           sufficient if there is a judicial warrant.



946098

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Substitute Amendment (941354)**

2

3           Delete lines 61 - 77

4           and insert:

5           contravenes 8 U.S.C. s. 1373(a).



545528

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment to Substitute Amendment (941354)**

Delete lines 109 - 120  
and insert:

(d) Using the information to verify a claim of residence or domicile if a determination of residence or domicile is required under federal or state law, an ordinance or regulation of a local governmental entity, or a judicial order issued pursuant to a civil or criminal proceeding in this state.

(e) Using the information to comply with an immigration



545528

11 detainer.

12 (f) Using the information to confirm the identity of a



828552

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Substitute Amendment (941354) (with**  
2 **title amendment)**

3  
4           Delete lines 160 - 174  
5 and insert:

6           (5) A state entity, local governmental entity, or law  
7 enforcement agency implementing the Rule of Law Adherence Act  
8 has an affirmative duty to inquire whether or not a person is a  
9 victim of or a witness to a criminal offense, and if so, the  
10 victim or the witness may not be subject to this act.





828552

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

And the title is amended as follows:

Delete lines 296 - 299

and insert:

circumstances; providing that certain entities or  
agencies have an affirmative duty to inquire whether  
or not a person is a victim of or a witness to a  
criminal offense, and if so, prohibiting them from  
being subject to the act; specifying



384212

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Short title.—This act may be cited as the “Rule of Law Adherence Act.”

Section 2. Chapter 908, Florida Statutes, consisting of sections 908.101-908.402, is created to read:

CHAPTER 908

FEDERAL IMMIGRATION ENFORCEMENT

1  
2  
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11 PART I

12 FINDINGS AND INTENT AND DEFINITIONS

13 908.101 Legislative findings and intent.—The Legislature  
14 finds that it is an important state interest that state entities  
15 and their officials have an affirmative duty to all citizens and  
16 other persons lawfully present in the United States to assist  
17 the Federal Government in the enforcement of federal immigration  
18 laws within this state, including their compliance with federal  
19 immigration detainers. The Legislature further finds that it is  
20 an important state interest that, in the interest of public  
21 safety and adherence to federal law, this state support federal  
22 immigration enforcement efforts and ensure that such efforts are  
23 not impeded or thwarted by state laws, policies, practices,  
24 procedures, or customs. State entities and their officials who  
25 encourage persons unlawfully present in the United States to  
26 locate within this state or who shield such persons from  
27 personal responsibility for their unlawful actions breach this  
28 duty and should be held accountable.

29 908.102 Definitions.—As used in this chapter, the term:

30 (1) "Federal immigration agency" means the United States  
31 Department of Justice and the United States Department of  
32 Homeland Security, a division within such an agency, including  
33 United States Immigration and Customs Enforcement and United  
34 States Customs and Border Protection, any successor agency, and  
35 any other federal agency charged with the enforcement of  
36 immigration law. The term includes an official or employee of  
37 such an agency.

38 (2) "Immigration detainer" means a facially sufficient  
39 written or electronic request issued by a federal immigration



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40 agency using that agency's official form to request that another  
41 law enforcement agency detain a person based on probable cause  
42 to believe that the person to be detained is a removable alien  
43 under federal immigration law, including detainers issued  
44 pursuant to 8 U.S.C. ss. 1226 and 1357. For purposes of this  
45 subsection, an immigration detainer is deemed facially  
46 sufficient if:

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

51 (b) The federal immigration agency's official form is  
52 incomplete and fails to indicate on its face that the federal  
53 immigration official has probable cause to believe that the  
54 person to be detained is a removable alien under federal  
55 immigration law, but is supported by an affidavit, order, or  
56 other official documentation that indicates that the federal  
57 immigration agency has probable cause to believe that the person  
58 to be detained is a removable alien under federal immigration  
59 law.

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

62 (4) "Law enforcement agency" means an agency in this state  
63 charged with enforcement of state or federal laws or with  
64 managing custody of detained persons in the state and includes  
65 state police departments and the Department of Corrections. The  
66 term includes an official or employee of such an agency.

67 (5) "Sanctuary policy" means a law, policy, practice,  
68 procedure, or custom adopted or permitted by a state entity or



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69 law enforcement agency which contravenes 8 U.S.C. s. 1373(a) or  
70 (b) or which knowingly prohibits or impedes a law enforcement  
71 agency from communicating or cooperating with a federal  
72 immigration agency with respect to federal immigration  
73 enforcement, including, but not limited to, limiting a state  
74 entity or law enforcement agency in, or prohibiting such an  
75 entity or agency from:

76 (a) Complying with an immigration detainer;

77 (b) Complying with a request from a federal immigration  
78 agency to notify the agency before the release of an inmate or  
79 detainee in the custody of the state entity or law enforcement  
80 agency;

81 (c) Providing a federal immigration agency access to an  
82 inmate for interview;

83 (d) Initiating an immigration status investigation; or

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

86 (6) "Sanctuary policymaker" means a state official who has  
87 voted for, allowed to be implemented, or voted against repeal or  
88 prohibition of a sanctuary policy.

89 (7) "State entity" means the state or any office, board,  
90 bureau, commission, department, branch, division, or institution  
91 thereof. The term includes a person holding public office or  
92 having official duties as a representative, agent, or employee  
93 of such entity.

94 PART II

95 DUTIES

96 908.201 Sanctuary policies prohibited.—A state entity or  
97 law enforcement agency may not adopt or have in effect a



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98 sanctuary policy.

99 908.202 Cooperation with federal immigration authorities.-

100 (1) A state entity or law enforcement agency shall fully  
101 comply with and, to the full extent permitted by law, support  
102 the enforcement of federal immigration law. This subsection  
103 applies to an official, representative, agent, or employee of  
104 such entity or agency only when he or she is acting within the  
105 scope of his or her official duties or within the scope of his  
106 or her employment.

107 (2) Except as otherwise expressly prohibited by federal  
108 law, a state entity or law enforcement agency may not prohibit  
109 or in any way restrict another state entity or law enforcement  
110 agency from taking any of the following actions with respect to  
111 information regarding a person's immigration status:

112 (a) Sending such information to or requesting, receiving,  
113 or reviewing such information from a federal immigration agency  
114 for purposes of this chapter.

115 (b) Recording and maintaining such information for purposes  
116 of this chapter.

117 (c) Exchanging such information with a federal immigration  
118 agency or another state entity or law enforcement agency for  
119 purposes of this chapter.

120 (d) Using such information to determine eligibility for a  
121 public benefit, service, or license pursuant to federal or state  
122 law.

123 (e) Using such information to verify a claim of residence  
124 or domicile if a determination of residence or domicile is  
125 required under federal or state law or a judicial order issued  
126 pursuant to a civil or criminal proceeding in this state.



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127 (f) Using such information to comply with an immigration  
128 detainer.

129 (g) Using such information to confirm the identity of a  
130 person who is detained by a law enforcement agency.

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

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

135 2. The judge:

136 a. Indicates in the record under s. 908.204 that the  
137 defendant is subject to an immigration detainer; or

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

140 (b) In an applicable criminal case, at the time of  
141 pronouncement of a sentence of confinement, the judge shall  
142 issue an order requiring the secure correctional facility in  
143 which the defendant is to be confined to reduce the defendant's  
144 sentence by a period of not more than 7 days on the facility's  
145 determination that the reduction in sentence will facilitate the  
146 seamless transfer of the defendant into federal custody. For  
147 purposes of this paragraph, the term "secure correctional  
148 facility" means a state correctional institution as defined in  
149 s. 944.02.

150 (c) If the information specified in sub-subparagraph  
151 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
152 the sentence is pronounced in the case, the judge shall issue  
153 the order described by paragraph (b) as soon as the information  
154 becomes available.

155 (4) Notwithstanding any other provision of law, if a law



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156 enforcement agency has received verification from a federal  
157 immigration agency that an alien in the law enforcement agency's  
158 custody is unlawfully present in the United States, the law  
159 enforcement agency may securely transport such alien to a  
160 federal facility in this state or to another point of transfer  
161 to federal custody outside the jurisdiction of the law  
162 enforcement agency. A law enforcement agency shall obtain  
163 judicial authorization before securely transporting such alien  
164 to a point of transfer outside of this state.

165 (5) This section does not require a state entity or law  
166 enforcement agency to provide a federal immigration agency with  
167 information related to a victim of or a witness to a criminal  
168 offense if such victim or witness timely and in good faith  
169 responds to the entity's or agency's request for information and  
170 cooperation in the investigation or prosecution of such offense.

171 (6) A state entity or law enforcement agency that, pursuant  
172 to subsection (5), withholds information regarding the  
173 immigration information of a victim of or witness to a criminal  
174 offense shall document such victim's or witness's cooperation in  
175 the entity's or agency's investigative records related to the  
176 offense and shall retain such records for at least 10 years for  
177 the purpose of audit, verification, or inspection by the Auditor  
178 General.

179 908.203 Duties related to certain arrested persons.-

180 (1) If a person is arrested and is unable to provide proof  
181 of his or her lawful presence in the United States, not later  
182 than 48 hours after the person is arrested, and before the  
183 person is released on bond, a law enforcement agency performing  
184 the booking process:





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185       (a) Shall review any information available from a federal  
186 immigration agency.

187       (b) If information obtained under paragraph (a) reveals  
188 that the person is not a citizen of the United States and is  
189 unlawfully present in the United States according to the terms  
190 of the federal Immigration and Nationality Act, 8 U.S.C. ss.  
191 1101 et seq., must:

192       1. Provide immediate notice of the person's arrest and  
193 charges to a federal immigration agency.

194       2. Provide notice of that fact to the judge authorized to  
195 grant or deny the person's release on bail under chapter 903.

196       3. Record the person's arrest and charges in the person's  
197 case file.

198       (2) A law enforcement agency is not required to perform the  
199 duty imposed by subsection (1) with respect to a person who is  
200 transferred to the custody of the agency by another law  
201 enforcement agency if the transferring agency performed that  
202 duty before the transfer.

203       (3) A judge who receives notice of a person's immigration  
204 status under this section shall ensure that such status is  
205 recorded in the court record.

206       908.204 Duties related to immigration detainers.—

207       (1) A law enforcement agency that has custody of a person  
208 subject to an immigration detainer issued by a federal  
209 immigration agency shall:

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

213       (b) Record in the person's case file that the person is



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214 subject to an immigration detainer.

215 (c) Comply with, honor, and fulfill the requests made in  
216 the immigration detainer.

217 (2) A law enforcement agency is not required to perform a  
218 duty imposed by paragraph (1)(a) or paragraph (1)(b) with  
219 respect to a person who is transferred to the custody of the  
220 agency by another law enforcement agency if the transferring  
221 agency performed that duty before the transfer.

222 (3) A judge who receives notice that a person is subject to  
223 an immigration detainer shall ensure that such fact is recorded  
224 in the court record, regardless of whether the notice is  
225 received before or after a judgment in the case.

226 908.205 Reimbursement of costs.—A state entity or law  
227 enforcement agency may petition the Federal Government for  
228 reimbursement of the entity's or agency's detention costs and  
229 the costs of compliance with federal requests when such costs  
230 are incurred in support of the enforcement of federal  
231 immigration law.

232 908.206 Duty to report.—

233 (1) An official, representative, agent, or employee of a  
234 state entity or law enforcement agency shall promptly report a  
235 known or probable violation of this chapter to the Attorney  
236 General or the state attorney having jurisdiction over the  
237 entity or agency.

238 (2) An official, representative, agent, or employee of a  
239 state entity or law enforcement agency who willfully and  
240 knowingly fails to report a known or probable violation of this  
241 chapter may be suspended or removed from office pursuant to  
242 general law and s. 7, Art. IV of the State Constitution.



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243 (3) A state entity or law enforcement agency may not  
244 dismiss, discipline, take any adverse personnel action as  
245 defined in s. 112.3187(3) against, or take any adverse action  
246 described in s. 112.3187(4)(b) against, an official,  
247 representative, agent, or employee for complying with subsection  
248 (1).

249 (4) Section 112.3187 of the Whistle-blower's Act applies to  
250 an official, representative, agent, or employee of a state  
251 entity or law enforcement agency who is dismissed, disciplined,  
252 subject to any adverse personnel action as defined in s.  
253 112.3187(3) or any adverse action described in s.  
254 112.3187(4)(b), or denied employment because he or she complied  
255 with subsection (1).

256 908.207 Implementation.—This chapter shall be implemented  
257 to the fullest extent permitted by federal law regulating  
258 immigration and the legislative findings and intent declared in  
259 s. 908.101.

260 PART III

261 ENFORCEMENT

262 908.301 Complaints.—The Attorney General shall prescribe  
263 and provide through the Department of Legal Affairs' website the  
264 format for a person to submit a complaint alleging a violation  
265 of this chapter. This section does not prohibit the filing of an  
266 anonymous complaint or a complaint not submitted in the  
267 prescribed format. Any person has standing to submit a complaint  
268 under this chapter.

269 908.302 Enforcement; penalties.—

270 (1) The state attorney for the county in which a state  
271 entity is headquartered or a law enforcement agency is located



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272 has primary responsibility and authority for investigating  
273 credible complaints of a violation of this chapter. The results  
274 of an investigation by a state attorney shall be provided to the  
275 Attorney General in a timely manner.

276 (2) (a) A state entity or law enforcement agency about which  
277 the state attorney has received a complaint shall comply with a  
278 document request from the state attorney related to the  
279 complaint.

280 (b) If the state attorney determines that a complaint filed  
281 against a state entity or law enforcement agency is valid, the  
282 state attorney shall, not later than the 10th day after the date  
283 of the determination, provide written notification to the entity  
284 or agency that:

285 1. The complaint has been filed.

286 2. The state attorney has determined that the complaint is  
287 valid.

288 3. The state attorney is authorized to file an action to  
289 enjoin the violation if the entity or agency does not come into  
290 compliance with the requirements of this chapter on or before  
291 the 60th day after the notification is provided.

292 (c) Not later than the 30th day after the day a state  
293 entity or law enforcement agency receives written notification  
294 under paragraph (b), the entity or the agency shall provide the  
295 state attorney with a copy of:

296 1. The entity's or agency's written policies and procedures  
297 with respect to federal immigration agency enforcement actions,  
298 including the entity's or agency's policies and procedures with  
299 respect to immigration detainers.

300 2. Each immigration detainer received by the entity or



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301 agency from a federal immigration agency in the current calendar  
302 year-to-date and the 2 prior calendar years.

303 3. Each response sent by the entity or agency for an  
304 immigration detainer described by subparagraph 2.

305 (3) The Attorney General, the state attorney who conducted  
306 the investigation, or a state attorney so ordered by the  
307 Governor pursuant to s. 27.14 may institute proceedings in  
308 circuit court to enjoin a state entity or law enforcement agency  
309 found to be in violation of this chapter. Venue of an action  
310 brought by the Attorney General may be in Leon County. The court  
311 shall expedite an action under this section, including setting a  
312 hearing at the earliest practicable date.

313 (4) Upon adjudication by the court or as provided in a  
314 consent decree declaring that a state entity or law enforcement  
315 agency has violated this chapter, the court shall enjoin the  
316 unlawful sanctuary policy and order that such entity or agency  
317 pay a civil penalty to the state of at least \$1,000 but not more  
318 than \$5,000 for each day that the sanctuary policy was in effect  
319 commencing on October 1, 2019, or the date the sanctuary policy  
320 was first enacted, whichever is later, until the date the  
321 injunction was granted. The court has continuing jurisdiction  
322 over the parties and subject matter and may enforce its orders  
323 with the imposition of additional civil penalties as provided  
324 for in this section and the initiation of contempt proceedings  
325 as provided by law.

326 (5) An order approving a consent decree or granting an  
327 injunction or imposing civil penalties pursuant to subsection  
328 (4) must include written findings of fact that describe with  
329 specificity the existence and nature of the sanctuary policy



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330 that is in violation of s. 908.201 and identify each sanctuary  
331 policymaker who voted for, allowed to be implemented, or voted  
332 against repeal or prohibition of the sanctuary policy. The court  
333 shall provide to the Governor a copy of the consent decree or  
334 order granting an injunction or imposing civil penalties which  
335 contains the written findings required by this subsection within  
336 30 days after the date of rendition. A sanctuary policymaker  
337 identified in an order approving a consent decree or granting an  
338 injunction or imposing civil penalties may be suspended or  
339 removed from office pursuant to general law and s. 7, Art. IV of  
340 the State Constitution.

341 (6) A state entity or law enforcement agency ordered to pay  
342 a civil penalty pursuant to subsection (4) shall remit such  
343 payment to the Chief Financial Officer, who shall deposit it  
344 into the General Revenue Fund.

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

350 908.303 Civil cause of action for personal injury or  
351 wrongful death attributed to a sanctuary policy; trial by jury;  
352 required written findings.-

353 (1) A person injured in this state by the tortious acts or  
354 omissions of an alien unlawfully present in the United States,  
355 or the personal representative of a person killed in this state  
356 by the tortious acts or omissions of an alien unlawfully present  
357 in the United States, has a cause of action for damages against  
358 a state entity or law enforcement agency in violation of ss.



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359 908.201 and 908.202 upon proof by the greater weight of the  
360 evidence of:  
361 (a) The existence of a sanctuary policy in violation of s.  
362 908.201; and  
363 (b)1. A failure to comply with s. 908.202 which results in  
364 such alien's having access to the person injured or killed when  
365 the tortious acts or omissions occurred; or  
366 2. A failure to comply with s. 908.204(1)(c) which results  
367 in such alien's having access to the person injured or killed  
368 when the tortious acts or omissions occurred.  
369 (2) A cause of action brought pursuant to subsection (1)  
370 may not be brought against a person who holds public office or  
371 who has official duties as a representative, agent, or employee  
372 of a state entity or law enforcement agency, including a  
373 sanctuary policymaker.  
374 (3) Trial by jury is a matter of right in an action brought  
375 under this section.  
376 (4) A final judgment entered in favor of a plaintiff in a  
377 cause of action brought pursuant to this section must include  
378 written findings of fact that describe with specificity the  
379 existence and nature of the sanctuary policy that is in  
380 violation of s. 908.201 and that identify each sanctuary  
381 policymaker who voted for, allowed to be implemented, or voted  
382 against repeal or prohibition of the sanctuary policy. The court  
383 shall provide a copy of the final judgment containing the  
384 written findings required by this subsection to the Governor  
385 within 30 days after the date of rendition. A sanctuary  
386 policymaker identified in a final judgment may be suspended or  
387 removed from office pursuant to general law and s. 7, Art. IV of



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388 the State Constitution.

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

392 908.304 Ineligibility for state grant funding.-

393 (1) Notwithstanding any other provision of law, a state  
394 entity or law enforcement agency is ineligible to receive  
395 funding from nonfederal grant programs administered by state  
396 agencies that receive funding from the General Appropriations  
397 Act for a period of 5 years after the date of adjudication that  
398 such state entity or law enforcement agency had in effect a  
399 sanctuary policy in violation of this chapter.

400 (2) The applicable state attorney shall notify the Chief  
401 Financial Officer of an adjudicated violation of this chapter by  
402 a state entity or law enforcement agency and shall provide him  
403 or her a copy of the final court injunction, order, or judgment.  
404 Upon receiving such notice, the Chief Financial Officer shall  
405 timely inform all state agencies that administer nonfederal  
406 grant funding of the adjudicated violation by the state entity  
407 or law enforcement agency and direct such agencies to cancel all  
408 pending grant applications and enforce the ineligibility of such  
409 entity for the prescribed period.

410 (3) This subsection does not apply to:

411 (a) Funding that is received as a result of an  
412 appropriation to a specifically named state entity or law  
413 enforcement agency in the General Appropriations Act or other  
414 law.

415 (b) Grants awarded prior to the date of adjudication that  
416 such state entity or law enforcement agency had in effect a





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417 sanctuary policy in violation of this chapter.

418 PART IV

419 MISCELLANEOUS

420 908.401 Education records.—This chapter does not apply to  
421 the release of information contained in education records of an  
422 educational agency or institution, except in conformity with the  
423 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
424 1232g.

425 908.402 Discrimination prohibited.—A state entity or a law  
426 enforcement agency, or a person employed by or otherwise under  
427 the direction or control of such an entity or agency, may not  
428 base its actions under this chapter on the gender, race,  
429 religion, national origin, or physical disability of a person  
430 except to the extent authorized by the United States  
431 Constitution or the State Constitution.

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

436 Section 4. Sections 908.302 and 908.303, Florida Statutes,  
437 as created by this act, shall take effect October 1, 2019, and,  
438 except as otherwise expressly provided in this act, this act  
439 shall take effect July 1, 2019.

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

442 And the title is amended as follows:

443 Delete everything before the enacting clause  
444 and insert:

445 A bill to be entitled



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446 An act relating to federal immigration enforcement;  
447 providing a short title; creating chapter 908, F.S.,  
448 relating to federal immigration enforcement; providing  
449 legislative findings and intent; providing  
450 definitions; prohibiting sanctuary policies; requiring  
451 state entities and law enforcement agencies to comply  
452 with and support the enforcement of federal  
453 immigration law; prohibiting restrictions by such  
454 entities and agencies on taking certain actions with  
455 respect to information regarding a person's  
456 immigration status; providing requirements concerning  
457 certain criminal defendants subject to immigration  
458 detainers or otherwise subject to transfer to federal  
459 custody; authorizing a law enforcement agency to  
460 transport an alien unlawfully present in the United  
461 States under certain circumstances; providing an  
462 exception to reporting requirements for crime victims  
463 or witnesses; requiring recordkeeping relating to  
464 crime victim and witness cooperation in certain  
465 investigations; specifying duties concerning certain  
466 arrested persons; specifying duties concerning  
467 immigration detainers; authorizing state entities or  
468 law enforcement agencies to petition the Federal  
469 Government for reimbursement of certain costs;  
470 requiring reports of violations; providing penalties  
471 for failure to report violations; providing whistle-  
472 blower protections for persons who report violations;  
473 requiring the Attorney General to prescribe and  
474 provide the format for submitting complaints;



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475 providing requirements for entities to comply with  
476 document requests from state attorneys concerning  
477 violations; providing for investigation of possible  
478 violations; providing for injunctive relief and civil  
479 penalties; providing for venue; requiring written  
480 findings; prohibiting the expenditure of public funds  
481 for specified purposes; providing a civil cause of  
482 action for personal injury or wrongful death  
483 attributed to a sanctuary policy; providing that a  
484 trial by jury is a matter of right; requiring written  
485 findings; providing for ineligibility to receive  
486 certain funding for a specified period of time;  
487 providing for applicability to certain education  
488 records; prohibiting discrimination on specified  
489 grounds; providing for implementation; requiring  
490 repeal of existing sanctuary policies within a  
491 specified period; providing effective dates.



384318

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2019	.	
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The Committee on Judiciary (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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:



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12       (1) "Federal immigration agency" means the United States  
13 Department of Justice and the United States Department of  
14 Homeland Security, a division within such an agency, including  
15 United States Immigration and Customs Enforcement and United  
16 States Customs and Border Protection, any successor agency, and  
17 any other federal agency charged with the enforcement of  
18 immigration law. The term includes an official or employee of  
19 such an agency.

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

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

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



384318

41 law; and

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

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

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

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

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

69 (a) Complying with an immigration detainer;



384318

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

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

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

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

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

86 908.103 Sanctuary policies prohibited.—A state entity, law  
87 enforcement agency, or local governmental entity may not adopt  
88 or have in effect a sanctuary policy.

89 908.104 Cooperation with federal immigration authorities.—

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

96 (2) Except as otherwise expressly prohibited by federal  
97 law, a state entity, local governmental entity, or law  
98 enforcement agency may not prohibit or in any way restrict a law



384318

99 enforcement agency from taking any of the following actions with  
100 respect to information regarding a person's immigration status:

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

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

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

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

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

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

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

117 2. The judge:

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

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

122 (b) In an applicable criminal case, when the judge  
123 sentences a defendant who is the subject of an immigration  
124 detainer to confinement, the judge shall issue an order  
125 requiring the secure correctional facility in which the  
126 defendant is to be confined to reduce the defendant's sentence  
127 by a period of not more than 7 days on the facility's





384318

128 determination that the reduction in sentence will facilitate the  
129 seamless transfer of the defendant into federal custody. For  
130 purposes of this paragraph, the term "secure correctional  
131 facility" means a state correctional institution as defined in  
132 s. 944.02 or a county detention facility or a municipal  
133 detention facility as defined in s. 951.23.

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

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

154 (5) This section does not require a state entity, local  
155 governmental entity, or law enforcement agency to provide a  
156 federal immigration agency with information related to a victim



384318

157 of or a witness to a criminal offense if the victim or witness  
158 timely and in good faith responds to the entity's or agency's  
159 request for information and cooperation in the investigation or  
160 prosecution of the offense.

161 (6) A state entity, local governmental entity, or law  
162 enforcement agency that, pursuant to subsection (5), withholds  
163 information regarding the immigration information of a victim of  
164 or witness to a criminal offense shall document the victim's or  
165 witness's cooperation in the entity's or agency's investigative  
166 records related to the offense and shall retain the records for  
167 at least 10 years for the purpose of audit, verification, or  
168 inspection by the Auditor General.

169 908.105 Duties related to immigration detainers.—

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

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

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

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

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



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

190       908.106 Reimbursement of costs.—Each county correctional  
191 facility shall enter into an agreement or agreements with a  
192 federal immigration agency for temporarily housing persons who  
193 are the subject of immigration detainers and for the payment of  
194 the costs of housing and detaining those persons. A compliant  
195 agreement may include any contract between a correctional  
196 facility and a federal immigration agency for housing or  
197 detaining persons subject to immigration detainers, such as  
198 basic ordering agreements in effect on or after July 1, 2019,  
199 agreements authorized by section 287 of the Immigration and  
200 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and  
201 other similar agreements authorized by federal law.

202       908.107 Enforcement.—

203       (1) The Attorney General may institute a civil action  
204 against any state entity, local government entity, or law  
205 enforcement agency for a violation of this chapter or to prevent  
206 a violation of this chapter. An action for relief may include an  
207 action for an injunction or any other appropriate orders or  
208 relief. Upon adjudication by the court or as provided in a  
209 consent decree declaring that a state entity, local governmental  
210 entity, or law enforcement agency has violated this chapter, the  
211 court shall enjoin the unlawful sanctuary policy. The court has  
212 continuing jurisdiction over the parties and subject matter and  
213 may enforce its orders with the initiation of contempt  
214 proceedings as provided by law.



384318

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

219 908.108 Education records.—This chapter does not apply to  
220 the release of information contained in education records of an  
221 educational agency or institution, except in conformity with the  
222 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
223 1232g.

224 908.109 Discrimination prohibited.—A state entity, a local  
225 governmental entity, or a law enforcement agency, or a person  
226 employed by or otherwise under the direction or control of the  
227 entity or agency, may not base its actions under this chapter on  
228 the gender, race, religion, national origin, or physical  
229 disability of a person except to the extent authorized by the  
230 United States Constitution or the State Constitution.

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

235 Section 3. Section 908.107, Florida Statutes, as created by  
236 this act, shall take effect October 1, 2019, and, except as  
237 otherwise expressly provided in this act, this act shall take  
238 effect July 1, 2019.

239  
240 ===== T I T L E A M E N D M E N T =====

241 And the title is amended as follows:

242 Delete everything before the enacting clause  
243 and insert:



384318

244                                   A bill to be entitled  
245           An act relating to federal immigration enforcement;  
246           providing a short title; creating chapter 908, F.S.,  
247           relating to federal immigration enforcement; providing  
248           legislative findings and intent; providing  
249           definitions; prohibiting sanctuary policies; requiring  
250           state entities, local governmental entities, and law  
251           enforcement agencies to use best efforts to support  
252           the enforcement of federal immigration law;  
253           prohibiting restrictions by the entities and agencies  
254           on taking certain actions with respect to information  
255           regarding a person's immigration status; providing  
256           requirements concerning certain criminal defendants  
257           subject to immigration detainers or otherwise subject  
258           to transfer to federal custody; authorizing a law  
259           enforcement agency to transport an alien unlawfully  
260           present in the United States under certain  
261           circumstances; providing an exception to reporting  
262           requirements for crime victims or witnesses; requiring  
263           recordkeeping relating to crime victim and witness  
264           cooperation in certain investigations; specifying  
265           duties concerning immigration detainers; requiring  
266           county correctional facilities to enter agreements for  
267           payments for complying with immigration detainers;  
268           providing for injunctive relief; providing for  
269           applicability to certain education records;  
270           prohibiting discrimination on specified grounds;  
271           providing for implementation; requiring repeal of  
272           existing sanctuary policies within a specified period;



384318

273

providing effective dates.



106948

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment to Amendment (384318)**

Delete lines 26 - 45  
and insert:  
pursuant to 8 U.S.C. ss. 1226 and 1357 along with a valid  
judicial warrant, issued in compliance with s. 901.02(2).



413924

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (384318)**

2

3           Delete lines 63 - 79

4           and insert:

5           contravenes 8 U.S.C. s. 1373(a) or (b).





616122

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (384318) (with title**  
2 **amendment)**

3  
4           Delete lines 154 - 168  
5 and insert:

6           (5) A state entity, local governmental entity, or law  
7 enforcement agency implementing the Rule of Law Adherence Act  
8 has an affirmative duty to inquire whether or not a person is a  
9 victim of or a witness to a criminal offense, and if so, the  
10 victim or the witness may not be subject to the act.



616122

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

And the title is amended as follows:

Delete lines 261 - 264

and insert:

circumstances; providing that certain entities or  
agencies have an affirmative duty to inquire whether  
or not a person is a victim of or a witness to a  
criminal offense, and if so, prohibiting the person  
from being subject to the act; specifying



478986

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (384318) (with title**  
2 **amendment)**

3  
4           Delete lines 219 - 223  
5 and insert:

6           908.108 Education facilities or institutions.—This chapter  
7 does not apply to law enforcement agencies or local governmental  
8 entities while operating at any educational facility or  
9 institution.

10



478986

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

12 And the title is amended as follows:

13       Delete lines 268 - 269

14 and insert:

15       providing for injunctive relief; providing for  
16       applicability to certain educational facilities or  
17       institutions;



170934

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment**

Delete lines 116 - 147  
and insert:  
state police departments, and the Department of Corrections. The term includes an official or employee of such an agency. However, the term excludes state university and college police departments, school resource officers, and participants of school guardian programs.

(5) "Local governmental entity" means any county,



170934

11 municipality, or other political subdivision of this state. The  
12 term includes a person holding public office or having official  
13 duties as a representative, an agent, or an employee of the  
14 entity.

15 (6) "Sanctuary policy" means a law, policy, practice,  
16 procedure, or custom adopted by or permitted by a state entity,  
17 local governmental entity, or law enforcement agency which  
18 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly  
19 prohibits or impedes a law enforcement agency from communicating  
20 or cooperating with a federal immigration agency with respect to  
21 federal immigration enforcement, including, but not limited to,  
22 limiting a state entity, local governmental entity, or law  
23 enforcement agency in, or prohibiting such an entity or agency  
24 from:

25 (a) Complying with an immigration detainer;

26 (b) Complying with a request from a federal immigration  
27 agency to notify the agency before the release of an inmate or  
28 detainee in the custody of the state entity, local governmental  
29 entity, or law enforcement agency;

30 (c) Providing a federal immigration agency access to an  
31 inmate for interview;

32 (d) Initiating an immigration status investigation; or

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

35 (7) "State entity" means the state or any office, board,  
36 bureau, commission, department, branch, division, or institution  
37 thereof. The term includes a person holding public office or  
38 having official duties as a representative, an agent, or an  
39 employee of the entity. However, the term excludes the State



170934

40 University System, the Florida College System, the Department of  
41 Education, and the Department of Children and Families.



538004

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

1           **Senate Amendment**  
2  
3           Delete lines 126 - 142  
4           and insert:  
5           contravenes 8 U.S.C. s. 1373(a).





803882

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 160 - 237

and insert:

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



803882

11 (a) Sending the information to or requesting, receiving, or  
12 reviewing the information from a federal immigration agency for  
13 purposes of this chapter.

14 (b) Recording and maintaining the information for purposes  
15 of this chapter.

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

19 (d) Using the information to determine eligibility for a  
20 public benefit, service, or license pursuant to federal or state  
21 law or an ordinance or regulation of a local governmental  
22 entity.

23 (e) Using the information to verify a claim of residence or  
24 domicile if a determination of residence or domicile is required  
25 under federal or state law, an ordinance or regulation of a  
26 local governmental entity, or a judicial order issued pursuant  
27 to a civil or criminal proceeding in this state.

28 (f) Using the information to comply with an immigration  
29 detainer.

30 (g) Using the information to confirm the identity of a  
31 person who is detained by a law enforcement agency.

32 (2)(a) For purposes of this subsection the term "applicable  
33 criminal case" means a criminal case in which:

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

36 2. The judge:

37 a. Indicates in the record under s. 908.204 that the  
38 defendant is subject to an immigration detainer; or

39 b. Otherwise indicates in the record that the defendant is



803882

40 subject to a transfer into federal custody.

41 (b) In an applicable criminal case, at the time of  
42 pronouncement of a sentence of confinement, the judge shall  
43 issue an order requiring the secure correctional facility in  
44 which the defendant is to be confined to reduce the defendant's  
45 sentence by a period of not more than 7 days on the facility's  
46 determination that the reduction in sentence will facilitate the  
47 seamless transfer of the defendant into federal custody. For  
48 purposes of this paragraph, the term "secure correctional  
49 facility" means a state correctional institution as defined in  
50 s. 944.02 or a county detention facility or a municipal  
51 detention facility as defined in s. 951.23.

52 (c) If the information specified in sub-subparagraph  
53 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
54 the sentence is pronounced in the case, the judge shall issue  
55 the order described by paragraph (b) as soon as the information  
56 becomes available.

57 (3) When a law enforcement agency receives verification  
58 from a federal immigration agency that an alien in the law  
59 enforcement agency's custody is unlawfully present in the United  
60 States, the agency may securely transport the alien to a federal  
61 facility in this state or to another point of transfer to  
62 federal custody outside the jurisdiction of the law enforcement  
63 agency. However, the law enforcement agency may transport an  
64 alien who is confined in a secure correctional facility only  
65 upon authorization by a court order unless the transportation  
66 will occur within the 7 day period under subsection (2). A law  
67 enforcement agency shall obtain judicial authorization before  
68 securely transporting an alien to a point of transfer outside of



803882

69 this state.

70 (4) This section does not require a state entity, local  
71 governmental entity, or law enforcement agency to provide a  
72 federal immigration agency with information related to a victim  
73 of or a witness to a criminal offense if the victim or witness  
74 timely and in good faith responds to the entity's or agency's  
75 request for information and cooperation in the investigation or  
76 prosecution of the offense.

77 (5) A state entity, local governmental entity, or law  
78 enforcement agency that, pursuant to subsection (4), withholds

79  
80 ===== T I T L E A M E N D M E N T =====

81 And the title is amended as follows:

82 Delete lines 6 - 10

83 and insert:

84 definitions; prohibiting certain restrictions by state  
85 entities, local governmental entities, and law  
86 enforcement agencies on taking



643696

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment**

Delete lines 181 - 192  
and insert:

(d) Using the information to verify a claim of residence or domicile if a determination of residence or domicile is required under federal or state law, an ordinance or regulation of a local governmental entity, or a judicial order issued pursuant to a civil or criminal proceeding in this state.

(e) Using the information to comply with an immigration



643696

11 detainer.

12 (f) Using the information to confirm the identity of a



722046

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 229 - 243

and insert:

(5) A state entity, local governmental entity, or law enforcement agency implementing the Rule of Law Adherence Act has an affirmative duty to inquire as to whether a person is a victim of or a witness to a criminal offense, and if so, the victim or the witness may not be subject to this act.



722046

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

12 And the title is amended as follows:

13       Delete lines 18 - 21

14 and insert:

15       that certain entities or agencies have an affirmative  
16       duty to inquire as to whether a person is a victim of  
17       or a witness to a criminal offense, and if so,  
18       prohibiting such a person from being subject to the  
19       act; specifying duties concerning certain





797868

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 244 - 270.

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

And the title is amended as follows:

Delete lines 21 - 23

and insert:

investigations; authorizing a board of county



748300

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2019	.	
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The Committee on Judiciary (Gruters) recommended the following:

**Senate Amendment**

In title, delete line 39  
and insert:  
findings; providing for suspension or removal from  
office of a sanctuary policymaker; prohibiting the  
expenditure of public funds

By Senator Gruters

23-00406A-19

2019168\_\_

1 A bill to be entitled  
 2 An act relating to federal immigration enforcement;  
 3 providing a short title; creating chapter 908, F.S.,  
 4 relating to federal immigration enforcement; providing  
 5 legislative findings and intent; providing  
 6 definitions; prohibiting sanctuary policies; requiring  
 7 state entities, local governmental entities, and law  
 8 enforcement agencies to comply with and support the  
 9 enforcement of federal immigration law; prohibiting  
 10 restrictions by such entities and agencies on taking  
 11 certain actions with respect to information regarding  
 12 a person's immigration status; providing requirements  
 13 concerning certain criminal defendants subject to  
 14 immigration detainers or otherwise subject to transfer  
 15 to federal custody; authorizing a law enforcement  
 16 agency to transport an alien unlawfully present in the  
 17 United States under certain circumstances; providing  
 18 an exception to reporting requirements for crime  
 19 victims or witnesses; requiring recordkeeping relating  
 20 to crime victim and witness cooperation in certain  
 21 investigations; specifying duties concerning certain  
 22 arrested persons; specifying duties concerning  
 23 immigration detainers; authorizing a board of county  
 24 commissioners to adopt an ordinance to recover costs  
 25 for complying with an immigration detainer;  
 26 authorizing local governmental entities and law  
 27 enforcement agencies to petition the Federal  
 28 Government for reimbursement of certain costs;  
 29 requiring reports of violations; providing penalties

Page 1 of 18

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

23-00406A-19

2019168\_\_

30 for failure to report violations; providing whistle-  
 31 blower protections for persons who report violations;  
 32 requiring the Attorney General to prescribe and  
 33 provide the format for submitting complaints;  
 34 providing requirements for entities to comply with  
 35 document requests from state attorneys concerning  
 36 violations; providing for investigation of possible  
 37 violations; providing for injunctive relief and civil  
 38 penalties; providing for venue; requiring written  
 39 findings; prohibiting the expenditure of public funds  
 40 for specified purposes; providing a civil cause of  
 41 action for personal injury or wrongful death  
 42 attributed to a sanctuary policy; providing that a  
 43 trial by jury is a matter of right; requiring written  
 44 findings; providing for ineligibility to receive  
 45 certain funding for a specified period of time;  
 46 providing for applicability to certain education  
 47 records; prohibiting discrimination on specified  
 48 grounds; providing for implementation; requiring  
 49 repeal of existing sanctuary policies within a  
 50 specified period; providing effective dates.

51  
 52 Be It Enacted by the Legislature of the State of Florida:

53  
 54 Section 1. Short title.—This act may be cited as the "Rule  
 55 of Law Adherence Act."

56 Section 2. Chapter 908, Florida Statutes, consisting of  
 57 sections 908.101-908.402, is created to read:

58 CHAPTER 908

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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FEDERAL IMMIGRATION ENFORCEMENTPART IFINDINGS AND INTENT AND DEFINITIONS

908.101 Legislative findings and intent.—The Legislature finds that it is an important state interest that state and local governmental entities and their officials have an affirmative duty to all citizens and other persons lawfully present in the United States to assist the Federal Government in the enforcement of federal immigration laws within this state, including their compliance with federal immigration detainers. The Legislature further finds that it is an important state interest that, in the interest of public safety and adherence to federal law, this state support federal immigration enforcement efforts and ensure that such efforts are not impeded or thwarted by state or local laws, policies, practices, procedures, or customs. State and local governmental entities and their officials who encourage persons unlawfully present in the United States to locate within this state or who shield such persons from personal responsibility for their unlawful actions breach this duty and should be held accountable.

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

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

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

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

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

(4) "Law enforcement agency" means an agency in this state charged with enforcement of state, county, municipal, or federal laws or with managing custody of detained persons in the state and includes municipal police departments, sheriff's offices, state police departments, state university and college police

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117 departments, and the Department of Corrections. The term  
 118 includes an official or employee of such an agency.

119 (5) "Local governmental entity" means any county,  
 120 municipality, or other political subdivision of this state. The  
 121 term includes a person holding public office or having official  
 122 duties as a representative, agent, or employee of such entity.

123 (6) "Sanctuary policy" means a law, policy, practice,  
 124 procedure, or custom adopted or permitted by a state entity,  
 125 local governmental entity, or law enforcement agency which  
 126 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly  
 127 prohibits or impedes a law enforcement agency from communicating  
 128 or cooperating with a federal immigration agency with respect to  
 129 federal immigration enforcement, including, but not limited to,  
 130 limiting a state entity, local governmental entity, or law  
 131 enforcement agency in, or prohibiting such an entity or agency  
 132 from:

133 (a) Complying with an immigration detainer;

134 (b) Complying with a request from a federal immigration  
 135 agency to notify the agency before the release of an inmate or  
 136 detainee in the custody of the state entity, local governmental  
 137 entity, or law enforcement agency;

138 (c) Providing a federal immigration agency access to an  
 139 inmate for interview;

140 (d) Initiating an immigration status investigation; or

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

143 (7) "Sanctuary policymaker" means a state or local elected  
 144 official, or an appointed official of the governing body of a  
 145 local governmental entity, who has voted for, allowed to be

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146 implemented, or voted against repeal or prohibition of a  
 147 sanctuary policy.

148 (8) "State entity" means the state or any office, board,  
 149 bureau, commission, department, branch, division, or institution  
 150 thereof, including institutions within the State University  
 151 System and the Florida College System. The term includes a  
 152 person holding public office or having official duties as a  
 153 representative, agent, or employee of such entity.

## PART II

## DUTIES

154  
 155  
 156 908.201 Sanctuary policies prohibited.—A state entity, law  
 157 enforcement agency, or local governmental entity may not adopt  
 158 or have in effect a sanctuary policy.

159 908.202 Cooperation with federal immigration authorities.—

160 (1) A state entity, local governmental entity, or law  
 161 enforcement agency shall fully comply with and, to the full  
 162 extent permitted by law, support the enforcement of federal  
 163 immigration law. This subsection applies to an official,  
 164 representative, agent, or employee of such entity or agency only  
 165 when he or she is acting within the scope of his or her official  
 166 duties or within the scope of his or her employment.

167 (2) Except as otherwise expressly prohibited by federal  
 168 law, a state entity, local governmental entity, or law  
 169 enforcement agency may not prohibit or in any way restrict  
 170 another state entity, local governmental entity, or law  
 171 enforcement agency from taking any of the following actions with  
 172 respect to information regarding a person's immigration status:

173 (a) Sending such information to or requesting, receiving,  
 174 or reviewing such information from a federal immigration agency

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175 for purposes of this chapter.

176 (b) Recording and maintaining such information for purposes  
177 of this chapter.

178 (c) Exchanging such information with a federal immigration  
179 agency or another state entity, local governmental entity, or  
180 law enforcement agency for purposes of this chapter.

181 (d) Using such information to determine eligibility for a  
182 public benefit, service, or license pursuant to federal or state  
183 law or an ordinance or regulation of a local governmental  
184 entity.

185 (e) Using such information to verify a claim of residence  
186 or domicile if a determination of residence or domicile is  
187 required under federal or state law, an ordinance or regulation  
188 of a local governmental entity, or a judicial order issued  
189 pursuant to a civil or criminal proceeding in this state.

190 (f) Using such information to comply with an immigration  
191 detainer.

192 (g) Using such information to confirm the identity of a  
193 person who is detained by a law enforcement agency.

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

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

198 2. The judge:

199 a. Indicates in the record under s. 908.204 that the  
200 defendant is subject to an immigration detainer; or

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

203 (b) In an applicable criminal case, at the time of

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204 pronouncement of a sentence of confinement, the judge shall  
205 issue an order requiring the secure correctional facility in  
206 which the defendant is to be confined to reduce the defendant's  
207 sentence by a period of not more than 7 days on the facility's  
208 determination that the reduction in sentence will facilitate the  
209 seamless transfer of the defendant into federal custody. For  
210 purposes of this paragraph, the term "secure correctional  
211 facility" means a state correctional institution as defined in  
212 s. 944.02 or a county detention facility or a municipal  
213 detention facility as defined in s. 951.23.

214 (c) If the information specified in sub-subparagraph  
215 (a)2.a. or sub-subparagraph (a)2.b. is not available at the time  
216 the sentence is pronounced in the case, the judge shall issue  
217 the order described by paragraph (b) as soon as the information  
218 becomes available.

219 (4) Notwithstanding any other provision of law, if a law  
220 enforcement agency has received verification from a federal  
221 immigration agency that an alien in the law enforcement agency's  
222 custody is unlawfully present in the United States, the law  
223 enforcement agency may securely transport such alien to a  
224 federal facility in this state or to another point of transfer  
225 to federal custody outside the jurisdiction of the law  
226 enforcement agency. A law enforcement agency shall obtain  
227 judicial authorization before securely transporting such alien  
228 to a point of transfer outside of this state.

229 (5) This section does not require a state entity, local  
230 governmental entity, or law enforcement agency to provide a  
231 federal immigration agency with information related to a victim  
232 of or a witness to a criminal offense if such victim or witness

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233 timely and in good faith responds to the entity's or agency's  
 234 request for information and cooperation in the investigation or  
 235 prosecution of such offense.

236 (6) A state entity, local governmental entity, or law  
 237 enforcement agency that, pursuant to subsection (5), withholds  
 238 information regarding the immigration information of a victim of  
 239 or witness to a criminal offense shall document such victim's or  
 240 witness's cooperation in the entity's or agency's investigative  
 241 records related to the offense and shall retain such records for  
 242 at least 10 years for the purpose of audit, verification, or  
 243 inspection by the Auditor General.

244 908.203 Duties related to certain arrested persons.-

245 (1) If a person is arrested and is unable to provide proof  
 246 of his or her lawful presence in the United States, not later  
 247 than 48 hours after the person is arrested, and before the  
 248 person is released on bond, a law enforcement agency performing  
 249 the booking process:

250 (a) Shall review any information available from a federal  
 251 immigration agency.

252 (b) If information obtained under paragraph (a) reveals  
 253 that the person is not a citizen of the United States and is  
 254 unlawfully present in the United States according to the terms  
 255 of the federal Immigration and Nationality Act, 8 U.S.C. ss.  
 256 1101 et seq., must:

257 1. Provide immediate notice of the person's arrest and  
 258 charges to a federal immigration agency.

259 2. Provide notice of that fact to the judge authorized to  
 260 grant or deny the person's release on bail under chapter 903.

261 3. Record the person's arrest and charges in the person's

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262 case file.

263 (2) A law enforcement agency is not required to perform the  
 264 duty imposed by subsection (1) with respect to a person who is  
 265 transferred to the custody of the agency by another law  
 266 enforcement agency if the transferring agency performed that  
 267 duty before the transfer.

268 (3) A judge who receives notice of a person's immigration  
 269 status under this section shall ensure that such status is  
 270 recorded in the court record.

271 908.204 Duties related to immigration detainers.-

272 (1) A law enforcement agency that has custody of a person  
 273 subject to an immigration detainer issued by a federal  
 274 immigration agency shall:

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

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

280 (c) Comply with, honor, and fulfill the requests made in  
 281 the immigration detainer.

282 (2) A law enforcement agency is not required to perform a  
 283 duty imposed by paragraph (1) (a) or paragraph (1) (b) with  
 284 respect to a person who is transferred to the custody of the  
 285 agency by another law enforcement agency if the transferring  
 286 agency performed that duty before the transfer.

287 (3) A judge who receives notice that a person is subject to  
 288 an immigration detainer shall ensure that such fact is recorded  
 289 in the court record, regardless of whether the notice is  
 290 received before or after a judgment in the case.

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291 908.205 Reimbursement of costs.-

292 (1) A board of county commissioners may adopt an ordinance  
 293 requiring a person detained pursuant to an immigration detainer  
 294 to reimburse the county for any expenses incurred in detaining  
 295 the person pursuant to the immigration detainer. A person  
 296 detained pursuant to an immigration detainer is not liable under  
 297 this section if a federal immigration agency determines that the  
 298 immigration detainer was improperly issued.

299 (2) A local governmental entity or law enforcement agency  
 300 may petition the Federal Government for reimbursement of the  
 301 entity's or agency's detention costs and the costs of compliance  
 302 with federal requests when such costs are incurred in support of  
 303 the enforcement of federal immigration law.

304 908.206 Duty to report.-

305 (1) An official, representative, agent, or employee of a  
 306 state entity, local governmental entity, or law enforcement  
 307 agency shall promptly report a known or probable violation of  
 308 this chapter to the Attorney General or the state attorney  
 309 having jurisdiction over the entity or agency.

310 (2) An official, representative, agent, or employee of a  
 311 state entity, local governmental entity, or law enforcement  
 312 agency who willfully and knowingly fails to report a known or  
 313 probable violation of this chapter may be suspended or removed  
 314 from office pursuant to general law and s. 7, Art. IV of the  
 315 State Constitution.

316 (3) A state entity, local governmental entity, or law  
 317 enforcement agency may not dismiss, discipline, take any adverse  
 318 personnel action as defined in s. 112.3187(3) against, or take  
 319 any adverse action described in s. 112.3187(4) (b) against, an

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320 official, representative, agent, or employee for complying with  
 321 subsection (1).

322 (4) Section 112.3187 of the Whistle-blower's Act applies to  
 323 an official, representative, agent, or employee of a state  
 324 entity, local governmental entity, or law enforcement agency who  
 325 is dismissed, disciplined, subject to any adverse personnel  
 326 action as defined in s. 112.3187(3) or any adverse action  
 327 described in s. 112.3187(4) (b), or denied employment because he  
 328 or she complied with subsection (1).

329 908.207 Implementation.-This chapter shall be implemented  
 330 to the fullest extent permitted by federal law regulating  
 331 immigration and the legislative findings and intent declared in  
 332 s. 908.101.

## PART III

## ENFORCEMENT

335 908.301 Complaints.-The Attorney General shall prescribe  
 336 and provide through the Department of Legal Affairs' website the  
 337 format for a person to submit a complaint alleging a violation  
 338 of this chapter. This section does not prohibit the filing of an  
 339 anonymous complaint or a complaint not submitted in the  
 340 prescribed format. Any person has standing to submit a complaint  
 341 under this chapter.

342 908.302 Enforcement; penalties.-

343 (1) The state attorney for the county in which a state  
 344 entity is headquartered or in which a local governmental entity  
 345 or law enforcement agency is located has primary responsibility  
 346 and authority for investigating credible complaints of a  
 347 violation of this chapter. The results of an investigation by a  
 348 state attorney shall be provided to the Attorney General in a

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349 timely manner.

350 (2) (a) A state entity, local governmental entity, or law  
 351 enforcement agency about which the state attorney has received a  
 352 complaint shall comply with a document request from the state  
 353 attorney related to the complaint.

354 (b) If the state attorney determines that a complaint filed  
 355 against a state entity, local governmental entity, or law  
 356 enforcement agency is valid, the state attorney shall, not later  
 357 than the 10th day after the date of the determination, provide  
 358 written notification to the entity or agency that:

359 1. The complaint has been filed.

360 2. The state attorney has determined that the complaint is  
 361 valid.

362 3. The state attorney is authorized to file an action to  
 363 enjoin the violation if the entity or agency does not come into  
 364 compliance with the requirements of this chapter on or before  
 365 the 60th day after the notification is provided.

366 (c) No later than the 30th day after the day a state  
 367 entity, local governmental entity, or law enforcement agency  
 368 receives written notification under paragraph (b), the entity or  
 369 agency shall provide the state attorney with a copy of:

370 1. The entity's or agency's written policies and procedures  
 371 with respect to federal immigration agency enforcement actions,  
 372 including the entity's or agency's policies and procedures with  
 373 respect to immigration detainers.

374 2. Each immigration detainer received by the entity or  
 375 agency from a federal immigration agency in the current calendar  
 376 year-to-date and the 2 prior calendar years.

377 3. Each response sent by the entity or agency for an

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378 immigration detainer described by subparagraph 2.

379 (3) The Attorney General, the state attorney who conducted  
 380 the investigation, or a state attorney so ordered by the  
 381 Governor pursuant to s. 27.14 may institute proceedings in  
 382 circuit court to enjoin a state entity, local governmental  
 383 entity, or law enforcement agency found to be in violation of  
 384 this chapter. Venue of an action brought by the Attorney General  
 385 may be in Leon County. The court shall expedite an action under  
 386 this section, including setting a hearing at the earliest  
 387 practicable date.

388 (4) Upon adjudication by the court or as provided in a  
 389 consent decree declaring that a state entity, local governmental  
 390 entity, or law enforcement agency has violated this chapter, the  
 391 court shall enjoin the unlawful sanctuary policy and order that  
 392 such entity or agency pay a civil penalty to the state of at  
 393 least \$1,000 but not more than \$5,000 for each day that the  
 394 sanctuary policy was in effect commencing on October 1, 2019, or  
 395 the date the sanctuary policy was first enacted, whichever is  
 396 later, until the date the injunction was granted. The court has  
 397 continuing jurisdiction over the parties and subject matter and  
 398 may enforce its orders with the imposition of additional civil  
 399 penalties as provided for in this section and the initiation of  
 400 contempt proceedings as provided by law.

401 (5) An order approving a consent decree or granting an  
 402 injunction or imposing civil penalties pursuant to subsection  
 403 (4) must include written findings of fact that describe with  
 404 specificity the existence and nature of the sanctuary policy  
 405 that is in violation of s. 908.201 and identify each sanctuary  
 406 policy maker who voted for, allowed to be implemented, or voted

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407 against repeal or prohibition of the sanctuary policy. The court  
 408 shall provide to the Governor a copy of the consent decree or  
 409 order granting an injunction or imposing civil penalties which  
 410 contains the written findings required by this subsection within  
 411 30 days after the date of rendition. A sanctuary policymaker  
 412 identified in an order approving a consent decree or granting an  
 413 injunction or imposing civil penalties may be suspended or  
 414 removed from office pursuant to general law and s. 7, Art. IV of  
 415 the State Constitution.

416 (6) A state entity, local governmental entity, or law  
 417 enforcement agency ordered to pay a civil penalty pursuant to  
 418 subsection (4) shall remit such payment to the Chief Financial  
 419 Officer, who shall deposit it into the General Revenue Fund.

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

425 908.303 Civil cause of action for personal injury or  
 426 wrongful death attributed to a sanctuary policy; trial by jury;  
 427 required written findings.-

428 (1) A person injured in this state by the tortious acts or  
 429 omissions of an alien unlawfully present in the United States,  
 430 or the personal representative of a person killed in this state  
 431 by the tortious acts or omissions of an alien unlawfully present  
 432 in the United States, has a cause of action for damages against  
 433 a state entity, local governmental entity, or law enforcement  
 434 agency in violation of ss. 908.201 and 908.202 upon proof by the  
 435 greater weight of the evidence of:

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436 (a) The existence of a sanctuary policy in violation of s.  
 437 908.201; and

438 (b)1. A failure to comply with s. 908.202 which results in  
 439 such alien's having access to the person injured or killed when  
 440 the tortious acts or omissions occurred; or

441 2. A failure to comply with s. 908.204(1)(c) which results  
 442 in such alien's having access to the person injured or killed  
 443 when the tortious acts or omissions occurred.

444 (2) A cause of action brought pursuant to subsection (1)  
 445 may not be brought against a person who holds public office or  
 446 who has official duties as a representative, agent, or employee  
 447 of a state entity, local governmental entity, or law enforcement  
 448 agency, including a sanctuary policymaker.

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

451 (4) A final judgment entered in favor of a plaintiff in a  
 452 cause of action brought pursuant to this section must include  
 453 written findings of fact that describe with specificity the  
 454 existence and nature of the sanctuary policy that is in  
 455 violation of s. 908.201 and that identify each sanctuary  
 456 policymaker who voted for, allowed to be implemented, or voted  
 457 against repeal or prohibition of the sanctuary policy. The court  
 458 shall provide a copy of the final judgment containing the  
 459 written findings required by this subsection to the Governor  
 460 within 30 days after the date of rendition. A sanctuary  
 461 policymaker identified in a final judgment may be suspended or  
 462 removed from office pursuant to general law and s. 7, Art. IV of  
 463 the State Constitution.

464 (5) Except as provided in this section, this chapter does

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465 not create a private cause of action against a state entity,  
 466 local governmental entity, or law enforcement agency that  
 467 complies with this chapter.

468 908.304 Ineligibility for state grant funding.—  
 469 (1) Notwithstanding any other provision of law, a state  
 470 entity, local governmental entity, or law enforcement agency is  
 471 ineligible to receive funding from nonfederal grant programs  
 472 administered by state agencies that receive funding from the  
 473 General Appropriations Act for a period of 5 years after the  
 474 date of adjudication that such state entity, local governmental  
 475 entity, or law enforcement agency had in effect a sanctuary  
 476 policy in violation of this chapter.

477 (2) The applicable state attorney shall notify the Chief  
 478 Financial Officer of an adjudicated violation of this chapter by  
 479 a state entity, local governmental entity, or law enforcement  
 480 agency and shall provide him or her a copy of the final court  
 481 injunction, order, or judgment. Upon receiving such notice, the  
 482 Chief Financial Officer shall timely inform all state agencies  
 483 that administer nonfederal grant funding of the adjudicated  
 484 violation by the state entity, local governmental entity, or law  
 485 enforcement agency and direct such agencies to cancel all  
 486 pending grant applications and enforce the ineligibility of such  
 487 entity for the prescribed period.

488 (3) This subsection does not apply to:  
 489 (a) Funding that is received as a result of an  
 490 appropriation to a specifically named state entity, local  
 491 governmental entity, or law enforcement agency in the General  
 492 Appropriations Act or other law.  
 493 (b) Grants awarded prior to the date of adjudication that

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494 such state entity, local governmental entity, or law enforcement  
 495 agency had in effect a sanctuary policy in violation of this  
 496 chapter.

497 PART IV  
 498 MISCELLANEOUS

499 908.401 Education records.—This chapter does not apply to  
 500 the release of information contained in education records of an  
 501 educational agency or institution, except in conformity with the  
 502 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
 503 1232g.

504 908.402 Discrimination prohibited.—A state entity, a local  
 505 governmental entity, or a law enforcement agency, or a person  
 506 employed by or otherwise under the direction or control of such  
 507 an entity or agency, may not base its actions under this chapter  
 508 on the gender, race, religion, national origin, or physical  
 509 disability of a person except to the extent authorized by the  
 510 United States Constitution or the State Constitution.

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

515 Section 4. Sections 908.302 and 908.303, Florida Statutes,  
 516 as created by this act, shall take effect October 1, 2019, and,  
 517 except as otherwise expressly provided in this act, this act  
 518 shall take effect July 1, 2019.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Commerce and Tourism, *Chair*  
Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Criminal  
and Civil Justice  
Banking and Insurance

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight

### SENATOR JOE GRUTERS

23rd District

January 17, 2019

The Honorable David Simmons, Chair  
Judiciary Committee  
404 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Simmons:

I am writing to request that Senate Bill 168, Federal Immigration Enforcement, be placed on the agenda of the next Judiciary Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Tom Cibula, Staff Director  
Joyce Butler, Committee Administrative Assistant

**REPLY TO:**

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**Davis, Eva**

---

**From:** Mitchell, Chase <Chase.Mitchell@myfloridacfo.com>  
**Sent:** Saturday, February 16, 2019 9:08 AM  
**To:** Davis, Eva  
**Subject:** Fwd: SB 256 - Sovereign Immunity for Child Protection Teams

Hope this helps!

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---

**From:** Merry, Molly <molly.merry@myfloridacfo.com>  
**Sent:** Friday, February 15, 2019 5:19 PM  
**To:** Stanfield, Meredith  
**Cc:** Mitchell, Chase; Delaney, Robin  
**Subject:** RE: SB 256 - Sovereign Immunity for Child Protection Teams

Meredith,  
Here is the updated information:

Fiscal Year	Lawsuits	Notices	Total	
			Claims	Claim Open or Closed
2006-2007	9	2	11	All Closed
2007-2008	4	1	5	All Closed
2008-2009	4	1	5	All Closed
2009-2010	0	1	1	All Closed
2010-2011	0	1	1	All Closed
2011-2012	0	1	1	All Closed
2012-2013	3	0	3	All Closed
2013-2014	1	2	3	All Closed
2014-2015	0	1	1	All Closed
2015-2016	1	1	2	All Closed
2016-2017	0	0	0	
2017-2018	0	0	0	
2018-2019	0	0	0	
<b>Total</b>	<b>22</b>	<b>11</b>	<b>33</b>	

As discussed with the information we provided in 2016, we do not have a specific code in our system that identifies Child Protection Teams. In order to update the table above, we queried cases against DCF reported since 7/1/2012 involving certain cause codes such as child abuse, failure to protect, wrongful death by foster parent, etc. This query provided us a list of cases (around 150) which were reviewed by our liability adjusters to determine which cases involved Child Protection Teams on some level. We found no cases related to CPTs reported to us in fiscal years 2016-2017 to present. The only updates we made were to fiscal years 2013-2014 and 2015-2016. In each of those fiscal years, one additional notice under sec. 768.28, F.S., was received by Risk Management, but no lawsuits have been filed on those notices.

If you have any questions, please let me know.

Thanks.

**Molly C. Merry, CPA**  
*Director, Division of Risk Management*

Office of Chief Financial Officer Jimmy Patronis  
Florida Department of Financial Services  
200 E. Gaines Street  
Tallahassee, FL 32399-0336  
(850) 413-4700 [Molly.Merry@myfloridacfo.com](mailto:Molly.Merry@myfloridacfo.com)

**Subscribe to Weekly Rundown, CFO Patronis' weekly newsletter**



*Please note that Florida has a broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.*



# 2019 AGENCY LEGISLATIVE BILL ANALYSIS

## AGENCY: Florida Department of Health

<u>BILL INFORMATION</u>	
<b>BILL NUMBER:</b>	SB 256
<b>BILL TITLE:</b>	Child Protection Teams
<b>BILL SPONSOR:</b>	Sen. Baxley
<b>EFFECTIVE DATE:</b>	July 1, 2019

<u>COMMITTEES OF REFERENCE</u>
1) Children, Families, and Elder Affairs
2) Judiciary
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Children, Families, and Elder Affairs

<u>SIMILAR BILLS</u>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

<u>PREVIOUS LEGISLATION</u>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

<u>IDENTICAL BILLS</u>	
<b>BILL NUMBER:</b>	HB 535
<b>SPONSOR:</b>	Rep. Smith (D)

<b>Is this bill part of an agency package?</b>
No

<u>BILL ANALYSIS INFORMATION</u>	
<b>DATE OF ANALYSIS:</b>	Jan 8, 2019
<b>LEAD AGENCY ANALYST:</b>	Nicole Jordan
<b>ADDITIONAL ANALYST(S):</b>	Click or tap here to enter text.
<b>LEGAL ANALYST:</b>	Adrienne Rodgers
<b>FISCAL ANALYST:</b>	Ashley Anderson

### **POLICY ANALYSIS**

## **1. EXECUTIVE SUMMARY**

Senate Bill 256 amends Section 768.28, F.S., to revise the definition of the term "officer, employee or agent" to include any member of a Child Protection Team (CPT) contracted to provide services through the Department of Health (DOH). The revision will provide sovereign immunity to all members of Child Protection Teams. CPTs supplement child protective investigation activities of Department of Children and Families (DCF) or designated sheriff's offices. Multidisciplinary staff provide medical evaluations and assessment services to children and families involved in child abuse and neglect investigations.

## **2. SUBSTANTIVE BILL ANALYSIS**

### **1. PRESENT SITUATION:**

The Florida Department of Health, Division of Children's Medical Services (CMS), Bureau of Child Protection and Special Technologies staff provides oversight of the statewide Child Protection Team (CPT) system. DOH contracts with 22 entities to serve as local CPTs. Each team has a local CPT Medical Director, who operates under the medical oversight of the Statewide Medical Director for Child Protection and the Assistant Statewide Medical Director. The local and statewide Medical Directors for Child Protection are either DOH OPS employees or employed by one of the state universities that oversee the CPT contract. Child Protection Teams consist of multidisciplinary staff, including Medical Directors, other Physicians, Advanced Practice Registered Nurses (APRNs), Physician Assistants, Registered Nurses (RNs), Team Coordinators, Case Coordinators, and support staff. As state or state university system employees, all of CPT Medical Directors have sovereign immunity when carrying out their duties as a team member.

Excluding CPT Medical Directors, there are approximately 364 Child Protection Team members in Florida employed by private, non-profit entities carrying out duties related to children being abused or neglected. Of these 364 Child Protection Team Members, approximately 126 are employed by parent organizations that are state universities or operated by a county governmental entity.

- 6 physicians
- 64 APRNs
- 2 Physician Assistants
- 8 RNs/Medical Assistants
- 12 Psychologists
- 27 Team Coordinators/Assistant Team Coordinators
- 186 Case Coordinators/Clinical Supervisors
- 42 Support Staff
- 17 Data Staff

Of these 364 Child Protection Team Members, approximately 126 are employed by parent organizations that are state universities or operated by a county governmental entity. Members of the following five CPTs currently have sovereign immunity protection as they are either state universities or a county governmental entity. These CPT programs include:

- 1) University of Florida in Gainesville CPT
- 2) University of Florida in Jacksonville CPT
- 3) University of Miami CPT
- 4) University of South Florida CPT
- 5) Broward County CPT



Currently, tort litigations involving state employees are represented by DOH Legal Counsel in collaboration with the Department of Financial Services, Division of Risk Management. The state's Risk Management Trust Fund covers litigation costs, which may be outsourced to outside counsel occasionally.

**2. EFFECT OF THE BILL:**

The impact of the bill will result in expanded sovereign immunity coverage to all members of Child Protection Teams. CPT staff employed by private non-profit entities will have equivalent protection to DOH employees and other entities covered by sovereign immunity as per Section 768.28, F.S. Legal resources and representation would need to be expanded to cover the cost of increased exposure to litigation.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y  N**

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y  N**

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y  N**

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
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## FISCAL ANALYSIS

### 1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y  N 

Revenues:	N/A
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

### 2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y  N 

Revenues:	N/A
Expenditures:	Senate Bill 256 would expand sovereign immunity coverage to approximately 364 Child Protection Team members. The fiscal impact will include the cost of legal representation, potential settlement costs, and other associated fees. The fiscal impact of extending sovereign immunity to any member of a Child Protection Team cannot be determined but could be significant.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

### 3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y  N 

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

### 4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y  N 

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

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**TECHNOLOGY IMPACT**

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1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y  N

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
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**FEDERAL IMPACT**

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1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
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**ADDITIONAL COMMENTS**

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N/A

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	None.
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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19 Meeting Date

SB 168 Bill Number (if applicable)

Topic Immigration

Amendment Barcode (if applicable)

Name BOB GUALTIERI

Job Title Sheriff

Address 10750 ULMERTON RD

Phone 727-251-5105

City Largo FL 33779

Email Rgualtieri@sheriff.com

Speaking: [ ] For [ ] Against [x] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: [x] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/2019

Meeting Date

168

Bill Number (if applicable)

941354

Amendment Barcode (if applicable)

Topic Support Federal Immigration Reform

Name David W. Caulkett

Job Title Vice President

Address P.O. 667065

Phone (954) 970-1492

Street

Pompano Beach

FL

3066

Email david@flimen.org

City

State

Zip

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing FLIMEN, FLoridians for IMmigration ENforcement

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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02/19/19 Meeting Date

SB168 Bill Number (if applicable)

Topic SB168

Amendment Barcode (if applicable)

Name Isabel Sousa

Job Title Membership Director

Address 2800 Biscayne Blvd

Phone 305 571 7254

Street City State Zip Miami FL 33137

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing FL Immigrant Coalition - We Are FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

*Meeting Date*

SB 168

*Bill Number (if applicable)*

Topic Requiring local law enforcement to implement ICE requests

*Amendment Barcode (if applicable)*

Name Kara Gross

Job Title Legislative Director

Address 4343 W. Flagler St., Suite 400

Phone 850-786-4436

*Street*

Miami

FL

33134

Email kgross@aclufl.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing American Civil Liberties Union of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 168

Bill Number (if applicable)

Topic Immigration Enforcement

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tally FL 32311

City

State

Zip

Email scott.mccoy@splcenter.org

Speaking: [ ] For [x] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing SPLC Action

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

168

Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av.

Phone

Tallahassee

City

FL

State

32311

Zip

Email

Speaking: [ ] For [X] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

2/19/2019

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 168

Meeting Date

Bill Number (if applicable)

Topic SB 168

Amendment Barcode (if applicable)

Name THOMAS KENNEDY

Job Title POLITICAL DIRECTOR

Address \_\_\_\_\_

Phone 786 346 0819

Street

Email TKENNEDY191@GMAIL.COM

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA IMMIGRANT COALITION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic SB 168

Amendment Barcode (if applicable) \_\_\_\_\_

Name TED HUTCHINSON

Job Title State Director

Address 1951 NW 7th Ave

Phone \_\_\_\_\_

Street

MIAMI

State

FL

Zip

Email ted@fwd.us

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FWD.us

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-19-14

Meeting Date

SB-168

Bill Number (if applicable)

Topic Federal immigration enforcement

Amendment Barcode (if applicable)

Name Mateo Duarte

Job Title \_\_\_\_\_

Address 4790 SW 14 St

Street

Phone 754 304 3958

Deerfield Beach

City

State

33442

Zip

Email mateoduarte.royus@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing We are Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

168  
Bill Number (if applicable)

Topic SB 168

Amendment Barcode (if applicable)

Name Amy Mannix

Job Title LAW at Magna / College Democrats

Address 75 N Woodward Ave

Phone 305 801 0348

Street

Tallahassee

FL

32313

City

State

Zip

Email amann@college-democrats.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing College Democrats

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/2019

Meeting Date

S 168

Bill Number (if applicable)

Topic Support S 168

Amendment Barcode (if applicable)

Name LANE WATKINS

Job Title RETIRED

Address 159 SW SYDNEY NICOLE COURT

Phone 904 673 0788

Street

LAKE CITY

FL

32074

City

State

Zip

Email H75 PED@YANHO.COM

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/19/19  
Meeting Date

168

Bill Number (if applicable)

Topic SB168

Amendment Barcode (if applicable)

Name Nanci Palacios

Job Title Community Organizer

Address 1014 Harold Ave

Phone 813 922 9848

Street

Seffner

FL

33584

Email npalacios@faith

City

State

Zip

in Florida

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against org  
(The Chair will read this information into the record.)

Representing Faith in Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 262

INTRODUCER: Judiciary Committee and Senator Albritton

SUBJECT: Child Welfare

DATE: February 20, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 262 aims to speed up the dependency process for abused children removed from their home to achieve permanency within 1 year. Permanency can be reunification with parents, placement with a permanent guardian, often a relative, or adoption. The bill makes changes such as requiring updated parent contact information, making referrals to services for parents within 7 days, requiring parents to notify the court of any barriers to completing their case plan, and to clearly inform parents that if they do not complete their case plan within 1 year, they may have their parental rights terminated.

The bill could have an insignificant fiscal impact on the state and has an effective date of October 1, 2019.

**II. Present Situation:**

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a 24-hour/day, 7-day/week capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.<sup>1</sup>

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<sup>1</sup> Department of Children and Families, *Abuse Hotline, Frequently Asked Questions*, see <http://www.myflfamilies.com/service-programs/abuse-hotline/frequently-asked-questions> (last visited Feb. 13, 2019).

The CPI receiving the report is most commonly a DCF employee, but in six counties the local sheriff performs the investigative function. The DCF child protective services are delivered through 6 regional offices, using more than 1,500 investigators and 300 supervisors.<sup>2</sup> The sheriffs' offices employ 387 CPIs and 70 supervisors.

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either department employees or employees of the Attorney General's Office under contract to DCF or, in one case, a state attorney's office.

The community-based care lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 19 lead agencies having contracts covering all 20 judicial circuits.<sup>3</sup> The lead agencies and their subcontractors employ case managers and supervisors to oversee the provision of services to children and their parents in the child welfare system. A parent's case plan may order a variety of services to improve their capacity as a care-giver. Many of the services are not directly provided by the lead agencies or the case management subcontractors, but by substance abuse, mental health, and other specialized community based providers.

### III. Effect of Proposed Changes:

**Section 1** amends section 39.001, F.S., relating to the purposes and intent of ch. 39, F.S., the state's laws on dependency, to require that the name of a child's guardian ad litem or attorney ad litem be entered on all orders of the court. The bill restates current law that permanency for the child should occur within 1 year.

**Section 2** amends s. 39.0136, F.S., regarding continuances in dependency cases, to state that all parties and the court must work to ensure the timely performance of their case plan. Though current law limits continues to 60 days in any 12-month period, the bill expressly states that this limitation applies even to continuances that result from the court's own motion.

Additionally, the bill requires the department to provide parents with the contact information for their case manager, and requires a new case manager to reach out to the parents quickly and diligently. The turnover rate amongst case managers is high, and the resulting disruptions can extend the time in care for dependent children. Case managers are either employees of the community-based care lead agency or a contracted provider.

**Section 3** amends s. 39.402, F.S., relating to placement of an abused child in a shelter. The bill clarifies that cases may not be continued more than 60 days, including continuances initiated by the court. The bill requires the court to advise the parents in plain language what is expected of them to achieve permanency with the child. Specifically, the bill requires the court to tell the parents that they must complete their case plan within 1 year, provide updated contact

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<sup>2</sup> Office of Child Welfare, Department of Children and Families, *Child Protective Investigator and Child Protective Investigator Supervisor Educational Qualifications, Turnover, and Working Conditions Status Report* (Oct. 1, 2016), <https://www.dcf.state.fl.us/programs/childwelfare/docs/2016LMRs/CPI%20CPI%20Supv%20Workforce%20Report.pdf>.

<sup>3</sup> Department of Children and Families, *Community Based Care Lead Agency Map*, <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last visited Feb. 13, 2019).

information to their attorney and case manager, and notify the court of any barriers to completing the case plan.

Additionally, the bill requires the parents of a dependent child who is in out-of-home care to provide the court with the name and “location information” for relatives who might care for the child.

**Section 4** amends 39.507, F.S., regarding adjudicatory hearings at which the court determines that a child is dependent. Specifically, the bill requires the court to advise the parents in plain language that the parents must complete their case plan within 1 year, provide updated contact information to their attorney and case manager, and notify the court of any barriers to completing the case plan.

**Section 5** amends s. 39.521, F.S., relating to disposition hearings, to clarify that the department must provide copies of the case plan to all parties in the dependency case.

**Section 6** amends s. 39.522, F.S. regarding postdisposition change of custody. The bill limits the circumstances in which a court may change the conditions of protective supervision or a placement of a child. Changes to these matters may occur only before a child’s permanency placement is approved at a permanency hearing. Additionally, the bill provides that these proceedings to change the conditions of protective supervision or a placement of a child may be initiated by a motion, as opposed to by a petition as under current law.

**Section 7** amends s. 39.6011, relating to case plans, to require that a case plan include written notice to the parents that it is their responsibility to comply with the case plan so that permanency with the child occurs within 1 year after removal or adjudication of the child as dependent. The case plan must also advise the parents that they must notify the parties and the court of any barriers that would prevent them from completing their case plans. The bill requires the department to explain the provisions of the case plan to all persons involved and provide necessary contact information. Moreover, the department must make referrals for services for parents within 7 days after the case plan is approved.

**Section 8** amends s. 39.6012, F.S., regarding case plan tasks, to require case plans to include strategies for the parents to use in overcoming any barriers to completing the case plan. The case plan must also explain to the parents that they must notify the parties and the court of certain barriers to the parents’ completion of their case plan.

**Section 9** amends s. 39.6013, F.S., relating to case plan amendments, to correct a cross-reference.

**Section 10** amends s. 39.621, F.S., regarding permanency, to require the court to hold permanency status hearings every 60 days for children who will need more than 1 year to achieve the permanency goal of adoption or reunification. These hearings must continue every 60 days until the child reaches the permanency goal or the court determines it is in the child’s best interest to change the goal.

**Section 11** amends s. 39.806, F.S., relating to termination of parental rights, to clarify that parents who do not materially complete their case plan, “by their action or inaction,” can have their parental rights terminated.

**Section 12** amends s. 39.811, F.S., regarding when a dependency case is disposed by a termination of parental rights, to require the court to enter a written order within 30 days after such disposition.

**Section 13** provides an effective date of October 1, 2019.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may increase costs to the state court system, the Guardian ad Litem program, and the Department of Children and Families. One aspect of the bill that could increase costs to the state is the requirement that the court hold hearings every 60 days regarding a child

who is in out-of-home care and will not achieve certain permanency goals within one year. However, if the bill results in children spending less time in dependency, then the state would realize a savings in the budget of the state court system and the department.

The Department of Children and Families states that the bill will have a “workload impact” on the Department and an “indeterminate” fiscal impact.<sup>4</sup> The Office of the State Courts Administrator has not supplied cost information for this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.001, 39.0136, 39.402, 39.507, 39.521, 39.522, 39.6011, 39.6012, 39.6013, 39.621, 39.806, and 39.811.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on February 19, 2019:**

The committee substitute changes the underlying bill by:

- Removing language that added a “purpose” to the list of purposes for this state’s dependency statutes;
- Changing several references to from “reunification with the child” to “permanency with the child;” and
- Eliminating the requirement that notice from the parents to the court of barriers to the parents’ completion of their case plan be *in writing*.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>4</sup> Department of Children and Families, *2019 Agency Bill Analysis (SB 262)* (Jan. 14, 2019) (on file with the Senate Committee on Judiciary).



406838

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2019	.	
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The Committee on Judiciary (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 65 - 427  
and insert:  
Statutes, is amended, and paragraph (j) is added to subsection (3) of that section, to read:

39.001 Purposes and intent; personnel standards and screening.—

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with



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11 the following protections:

12 (j) The ability to contact their guardian ad litem or  
13 attorney ad litem, if appointed, by having that individual's  
14 name entered on all orders of the court.

15 (7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—  
16 Parents, custodians, and guardians are deemed by the state to be  
17 responsible for providing their children with sufficient  
18 support, guidance, and supervision. The state further recognizes  
19 that the ability of parents, custodians, and guardians to  
20 fulfill those responsibilities can be greatly impaired by  
21 economic, social, behavioral, emotional, and related problems.  
22 It is therefore the policy of the Legislature that it is the  
23 state's responsibility to ensure that factors impeding the  
24 ability of caregivers to fulfill their responsibilities are  
25 identified through the dependency process and that appropriate  
26 recommendations and services to address those problems are  
27 considered in any judicial or nonjudicial proceeding. The  
28 Legislature also recognizes that time is of the essence for  
29 establishing permanency for a child in the dependency system.  
30 Therefore, parents must take action to comply with the case plan  
31 so permanency with the child may occur within the shortest  
32 period of time possible, but no later than 1 year after removal  
33 or adjudication of the child, including by notifying the parties  
34 and the court of barriers to case plan compliance.

35 Section 1. Section 39.0136, Florida Statutes, is amended to  
36 read:

37 39.0136 Time limitations; continuances.—

38 (1) The Legislature finds that time is of the essence for  
39 establishing permanency for a child in the dependency system.



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40 Time limitations are a right of the child which may not be  
41 waived, extended, or continued at the request of any party  
42 except as provided in this section.

43 (2)(a) All parties and the court must work together to  
44 ensure that permanency is achieved as soon as possible for every  
45 child through timely performance of their responsibilities under  
46 this chapter.

47 (b) The department shall ensure that parents have the  
48 information necessary to contact their case manager. When a new  
49 case manager is assigned to a case, the case manager must make a  
50 timely and diligent effort to notify the parent and provide  
51 updated contact information.

52 (3)~~(2)~~ The time limitations in this chapter do not include:

53 (a) Periods of delay resulting from a continuance granted  
54 at the request of the child's counsel or the child's guardian ad  
55 litem or, if the child is of sufficient capacity to express  
56 reasonable consent, at the request or with the consent of the  
57 child. The court must consider the best interests of the child  
58 when determining periods of delay under this section.

59 (b) Periods of delay resulting from a continuance granted  
60 at the request of any party if the continuance is granted:

61 1. Because of an unavailability of evidence that is  
62 material to the case if the requesting party has exercised due  
63 diligence to obtain evidence and there are substantial grounds  
64 to believe that the evidence will be available within 30 days.  
65 However, if the requesting party is not prepared to proceed  
66 within 30 days, any other party may move for issuance of an  
67 order to show cause or the court on its own motion may impose  
68 appropriate sanctions, which may include dismissal of the





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69 petition.

70 2. To allow the requesting party additional time to prepare  
71 the case and additional time is justified because of an  
72 exceptional circumstance.

73 (c) Reasonable periods of delay necessary to accomplish  
74 notice of the hearing to the child's parent or legal custodian;  
75 however, the petitioner shall continue regular efforts to  
76 provide notice to the parents during the periods of delay.

77 (4)~~(3)~~ Notwithstanding subsection (3) ~~(2)~~, in order to  
78 expedite permanency for a child, the total time allowed for  
79 continuances or extensions of time, including continuances or  
80 extensions by the court on its own motion, may not exceed 60  
81 days within any 12-month period for proceedings conducted under  
82 this chapter. A continuance or extension of time may be granted  
83 only for extraordinary circumstances in which it is necessary to  
84 preserve the constitutional rights of a party or if substantial  
85 evidence exists to demonstrate that without granting a  
86 continuance or extension of time the child's best interests will  
87 be harmed.

88 (5)~~(4)~~ Notwithstanding subsection (3) ~~(2)~~, a continuance or  
89 an extension of time is limited to the number of days absolutely  
90 necessary to complete a necessary task in order to preserve the  
91 rights of a party or the best interests of a child.

92 Section 2. Paragraph (f) of subsection (14) and subsections  
93 (15) and (18) of section 39.402, Florida Statutes, are amended  
94 to read:

95 39.402 Placement in a shelter.—

96 (14) The time limitations in this section do not include:

97 (f) Continuances or extensions of time may not total more



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98 than 60 days for all parties and the court on its own motion  
99 within any 12-month period during proceedings under this  
100 chapter. A continuance or extension beyond the 60 days may be  
101 granted only for extraordinary circumstances necessary to  
102 preserve the constitutional rights of a party or when  
103 substantial evidence demonstrates that the child's best  
104 interests will be affirmatively harmed without the granting of a  
105 continuance or extension of time.

106 (15) The department, at the conclusion of the shelter  
107 hearing, shall make available to parents or legal custodians  
108 seeking voluntary services, ~~any~~ referral information necessary  
109 for participation in such identified services to allow the  
110 parents or legal custodians to begin the services as soon as  
111 possible. The parents' or legal custodians' participation in the  
112 services may ~~shall~~ not be considered an admission or other  
113 acknowledgment of the allegations in the shelter petition.

114 (18) The court shall advise the parents in plain language  
115 what is expected of them to achieve reunification with their  
116 child, including that:

117 (a) Parents must take action to comply with the case plan  
118 so permanency with the child may occur within the shortest  
119 period of time possible, but no later than 1 year after removal  
120 or adjudication of the child.

121 (b) Parents must stay in contact with their attorney and  
122 their case manager and provide updated contact information if  
123 the parents' phone number, address, or e-mail address changes.

124 (c) Parents must notify the parties and the court of  
125 barriers to completing case plan tasks within a reasonable time  
126 after discovering such barriers.



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127           (d) If the parents fail to substantially comply with the  
128 case plan, their parental rights may be terminated and that the  
129 child's out-of-home placement may become permanent.

130           Section 3. Paragraph (c) of subsection (7) of section  
131 39.507, Florida Statutes, is amended to read:

132           39.507 Adjudicatory hearings; orders of adjudication.—  
133           (7)

134           (c) If a court adjudicates a child dependent and the child  
135 is in out-of-home care, the court shall inquire of the parent or  
136 parents whether the parents have relatives who might be  
137 considered as a placement for the child. The parent or parents  
138 shall provide the court and all parties with identification and  
139 location information for such relatives. The court shall advise  
140 the parents in plain language that: 7

141           1. Parents must take action to comply with the case plan so  
142 permanency with the child may occur within the shortest period  
143 of time possible, but no later than 1 year after removal or  
144 adjudication of the child.

145           2. Parents must stay in contact with their attorney and  
146 their case manager and provide updated contact information if  
147 the parents' phone number, address, or e-mail address changes.

148           3. Parents must notify the parties and the court of  
149 barriers to completing case plan tasks within a reasonable time  
150 after discovering such barriers.

151           4. If the parents fail to substantially comply with the  
152 case plan, their parental rights may be terminated and that the  
153 child's out-of-home placement may become permanent. ~~The parent~~  
154 ~~or parents shall provide to the court and all parties~~  
155 ~~identification and location information of the relatives.~~



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156 Section 4. Paragraph (a) of subsection (1) of section  
157 39.521, Florida Statutes, is amended to read:

158 39.521 Disposition hearings; powers of disposition.—

159 (1) A disposition hearing shall be conducted by the court,  
160 if the court finds that the facts alleged in the petition for  
161 dependency were proven in the adjudicatory hearing, or if the  
162 parents or legal custodians have consented to the finding of  
163 dependency or admitted the allegations in the petition, have  
164 failed to appear for the arraignment hearing after proper  
165 notice, or have not been located despite a diligent search  
166 having been conducted.

167 (a) A written case plan and a family functioning assessment  
168 prepared by an authorized agent of the department must be  
169 approved by the court. The department must file the case plan  
170 and the family functioning assessment with the court, serve  
171 copies ~~a copy of the case plan~~ on the parents of the child, and  
172 provide copies ~~a copy of the case plan to the representative of~~  
173 ~~the guardian ad litem program, if the program has been~~  
174 ~~appointed, and a copy~~ to all other parties:

175 1. Not less than 72 hours before the disposition hearing,  
176 if the disposition hearing occurs on or after the 60th day after  
177 the date the child was placed in out-of-home care. All such case  
178 plans must be approved by the court.

179 2. Not less than 72 hours before the case plan acceptance  
180 hearing, if the disposition hearing occurs before the 60th day  
181 after the date the child was placed in out-of-home care and a  
182 case plan has not been submitted pursuant to this paragraph, or  
183 if the court does not approve the case plan at the disposition  
184 hearing. The case plan acceptance hearing must occur within 30



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185 days after the disposition hearing to review and approve the  
186 case plan.

187 Section 5. Subsection (1) of section 39.522, Florida  
188 Statutes, is amended to read:

189 39.522 Postdisposition change of custody.—The court may  
190 change the temporary legal custody or the conditions of  
191 protective supervision at a postdisposition hearing, without the  
192 necessity of another adjudicatory hearing.

193 (1) At any time before a child achieves the permanency  
194 placement approved at the permanency hearing, a child who has  
195 been placed in the child's own home under the protective  
196 supervision of an authorized agent of the department, in the  
197 home of a relative, in the home of a legal custodian, or in some  
198 other place may be brought before the court by the department or  
199 by any other interested person, upon the filing of a motion  
200 ~~petition~~ alleging a need for a change in the conditions of  
201 protective supervision or the placement. If the parents or other  
202 legal custodians deny the need for a change, the court shall  
203 hear all parties in person or by counsel, or both. Upon the  
204 admission of a need for a change or after such hearing, the  
205 court shall enter an order changing the placement, modifying the  
206 conditions of protective supervision, or continuing the  
207 conditions of protective supervision as ordered. The standard  
208 for changing custody of the child shall be the best interest of  
209 the child. When applying this standard, the court shall consider  
210 the continuity of the child's placement in the same out-of-home  
211 residence as a factor when determining the best interests of the  
212 child. If the child is not placed in foster care, then the new  
213 placement for the child must meet the home study criteria and



214 court approval pursuant to this chapter.

215 Section 6. Present subsections (4) through (8) of section  
216 39.6011, Florida Statutes, are redesignated as subsections (5)  
217 through (9), respectively, paragraph (e) of subsection (2) and  
218 present subsection (6) of that section are amended, and a new  
219 subsection (4) is added to that section, to read:

220 39.6011 Case plan development.—

221 (2) The case plan must be written simply and clearly in  
222 English and, if English is not the principal language of the  
223 child's parent, to the extent possible in the parent's principal  
224 language. Each case plan must contain:

225 (e) A written notice to the parent that it is the parent's  
226 responsibility to take action to comply with the case plan so  
227 permanency with the child may occur within the shortest period  
228 of time possible, but no later than 1 year after removal or  
229 adjudication of the child; the parent must notify the parties  
230 and the court of barriers to completing case plan tasks within a  
231 reasonable time after discovering such barriers if the parties  
232 are not actively working to overcome them; failure of the parent  
233 to substantially comply with the case plan may result in the  
234 termination of parental rights; ~~and that~~ a material breach of  
235 the case plan by the parent's action or inaction may result in  
236 the filing of a petition for termination of parental rights  
237 sooner than the compliance period set forth in the case plan.

238 (4) Before signing the case plan, the department shall  
239 explain the provisions of the plan to all persons involved in  
240 its implementation, including, when appropriate, the child. The  
241 department shall ensure that the parent has contact information  
242 for all entities necessary to complete the tasks in the plan.



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243 The department shall explain the strategies included in the plan  
244 which the parent can use to overcome barriers to case plan  
245 compliance and shall explain that if a barrier is discovered and  
246 the parties are not actively working to overcome such barrier,  
247 the parent must notify the parties and the court within a  
248 reasonable time after discovering such barrier.

249 (7)-(6) After the case plan has been developed, the  
250 department shall adhere to the following procedural  
251 requirements:

252 (a) If the parent's substantial compliance with the case  
253 plan requires the department to provide services to the parents  
254 or the child and the parents agree to begin compliance with the  
255 case plan before the case plan's acceptance by the court, the  
256 department shall make the appropriate referrals for services  
257 that will allow the parents to begin the agreed-upon tasks and  
258 services immediately.

259 (b) All other referrals for services must be completed as  
260 soon as possible, but no later than 7 days after the date of the  
261 case plan approval, unless the case plan specifies that a task  
262 may not be undertaken until another specified task has been  
263 completed or otherwise approved by the court.

264 (c)-(b) After the case plan has been agreed upon and signed  
265 by the parties, a copy of the plan must be given immediately to  
266 the parties, including the child if appropriate, and to other  
267 persons as directed by the court.

268 1. A case plan must be prepared, but need not be submitted  
269 to the court, for a child who will be in care no longer than 30  
270 days unless that child is placed in out-of-home care a second  
271 time within a 12-month period.



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272           2. In each case in which a child has been placed in out-of-  
273 home care, a case plan must be prepared within 60 days after the  
274 department removes the child from the home and shall be  
275 submitted to the court before the disposition hearing for the  
276 court to review and approve.

277           3. After jurisdiction attaches, all case plans must be  
278 filed with the court, and a copy provided to all the parties  
279 whose whereabouts are known, not less than 3 business days  
280 before the disposition hearing. The department shall file with  
281 the court, and provide copies to the parties, all case plans  
282 prepared before jurisdiction of the court attached.

283           Section 7. Paragraph (b) of subsection (1) of section  
284 39.6012, Florida Statutes, is amended to read:

285           39.6012 Case plan tasks; services.—

286           (1) The services to be provided to the parent and the tasks  
287 that must be completed are subject to the following:

288           (b) The case plan must describe each of the tasks with  
289 which the parent must comply and the services to be provided to  
290 the parent, specifically addressing the identified problem,  
291 including:

292           1. The type of services or treatment.

293           2. The date the department will provide each service or  
294 referral for the service if the service is being provided by the  
295 department or its agent.

296           3. The date by which the parent must complete each task.

297           4. The frequency of services or treatment provided. The  
298 frequency of the delivery of services or treatment provided  
299 shall be determined by the professionals providing the services  
300 or treatment on a case-by-case basis and adjusted according to





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301 their best professional judgment.

302 5. The location of the delivery of the services.

303 6. The staff of the department or service provider  
304 accountable for the services or treatment.

305 7. A description of the measurable objectives, including  
306 the timeframes specified for achieving the objectives of the  
307 case plan and addressing the identified problem.

308 8. Strategies to overcome barriers to case plan compliance  
309 and an explanation that the parent must notify the parties and  
310 the court within a reasonable time after discovering a barrier  
311 that the parties are not actively working to overcome such  
312 barrier.

313 Section 8. Subsection (8) of section 39.6013, Florida  
314 Statutes, is amended to read:

315 39.6013 Case plan amendments.—

316 (8) Amendments must include service interventions that are  
317 the least intrusive into the life of the parent and child, must  
318 focus on clearly defined objectives, and must provide the most  
319 efficient path to quick reunification or permanent placement  
320 given the circumstances of the case and the child's need for  
321 safe and proper care. A copy of the amended plan must be  
322 immediately given to the persons identified in s. 39.6011(7)(c)  
323 ~~s. 39.6011(6)(b)~~.

324 Section 9. Present subsections (7) through (10) of section  
325 39.621, Florida Statutes, are redesignated as subsections (8)  
326 through (11), respectively, present subsections (9), (10), and  
327 (11) of that section are amended, and a new subsection (7) is  
328 added to that section, to read:

329 39.621 Permanency determination by the court.—



330       (7) If the court determines that the child's goal is  
331 appropriate but the child will be in out-of-home care for more  
332 than 12 months before achieving permanency, in those cases where  
333 the goal is reunification or adoption, the court must hold  
334 permanency status hearings for the child every 60 days until the  
335 child reaches the specified permanency goal or the court  
336 determines it is in the child's best interest to change the  
337 permanency goal.

338       ~~(10)~~~~(9)~~ The case plan must list the tasks necessary to  
339 finalize the permanency placement and shall be updated at the  
340 permanency hearing unless the child will achieve permanency  
341 within 60 days after the hearing ~~if necessary~~. If a concurrent  
342 case plan is in place, the court may choose between the  
343 permanency goal options presented and shall approve the goal  
344 that is in the child's best interest.

345       ~~(11)~~~~(10)~~ The permanency placement is intended to continue  
346 until the child reaches the age of majority and may not be  
347 disturbed absent a finding by the court that the circumstances  
348 of the permanency placement are no longer in the best interest  
349 of the child.

350       (a) If, after a child is residing in the permanent  
351 placement

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

354 And the title is amended as follows:

355       Delete lines 3 - 27

356 and insert:

357       F.S.; providing for the name of a child's guardian ad  
358       litem or attorney ad litem to be entered on court



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359 orders in dependency proceedings; amending s. 39.0136,  
360 F.S.; requiring cooperation between certain parties  
361 and the court to achieve permanency for a child as  
362 soon as possible; requiring the Department of Children  
363 and Families to ensure that parents have the  
364 information necessary to contact their case manager;  
365 requiring that a new case manager who is assigned to a  
366 case notify the parent and provide updated contact  
367 information; specifying that continuances and  
368 extensions of time by the court on its own motion may  
369 not exceed a certain period of time; amending s.  
370 39.402, F.S.; specifying that time limitations  
371 governing placement of a child in a shelter do not  
372 include continuances requested by the court; requiring  
373 the court to advise parents in plain language what is  
374 expected of them to achieve reunification with their  
375 child; expanding the requirements that parents must  
376 meet to achieve reunification with their child;  
377 amending s. 39.507, F.S.; requiring the court during  
378 an adjudicatory hearing to advise parents in plain  
379 language of certain requirements to achieve permanency  
380 with their child; expanding the

By Senator Albritton

26-00454-19

2019262\_\_

1 A bill to be entitled  
 2 An act relating to child welfare; amending s. 39.001,  
 3 F.S.; expanding the purpose of ch. 39, F.S.; providing  
 4 for the name of a child's guardian ad litem or  
 5 attorney ad litem to be entered on court orders in  
 6 dependency proceedings; amending s. 39.0136, F.S.;  
 7 requiring cooperation between certain parties and the  
 8 court to achieve permanency for a child as soon as  
 9 possible; requiring the Department of Children and  
 10 Families to ensure that parents have the information  
 11 necessary to contact their case manager; requiring  
 12 that a new case manager who is assigned to a case  
 13 notify the parent and provide updated contact  
 14 information; specifying that continuances and  
 15 extensions of time by the court on its own motion may  
 16 not exceed a certain period of time; amending s.  
 17 39.402, F.S.; specifying that time limitations  
 18 governing placement of a child in a shelter do not  
 19 include continuances requested by the court; requiring  
 20 the court to advise parents in plain language what is  
 21 expected of them to achieve reunification with their  
 22 child; expanding the requirements that parents must  
 23 meet to achieve reunification with their child;  
 24 amending s. 39.507, F.S.; requiring the court during  
 25 an adjudicatory hearing to advise parents in plain  
 26 language of certain requirements to achieve  
 27 reunification with their child; expanding the  
 28 requirements that parents must meet to achieve  
 29 reunification with their child; amending s. 39.521,

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 F.S.; requiring the department to serve copies of the  
 31 case plan and the family functioning assessment on the  
 32 parents of the child and provide copies of the plan  
 33 and assessment to the other parties; amending s.  
 34 39.522, F.S.; specifying that a postdisposition  
 35 hearing, if needed, must occur before a child achieves  
 36 a permanency placement; amending s. 39.6011, F.S.;  
 37 requiring that the written notice in a case plan  
 38 include certain responsibilities and actions required  
 39 of the parents and inform the parent that a breach of  
 40 the case plan by the parent's action or inaction may  
 41 result in an earlier filing of a petition for  
 42 termination of parental rights; requiring the  
 43 department to ensure that the parent has certain  
 44 contact information and to explain certain strategies  
 45 included in the case plan; providing a timeframe for  
 46 referrals for services; amending s. 39.6012, F.S.;  
 47 expanding the tasks and services a case plan must  
 48 describe; amending s. 39.6013, F.S.; conforming a  
 49 cross-reference; amending s. 39.621, F.S.; requiring  
 50 the court to hold permanency hearings within specified  
 51 timeframes; requiring that the case plan be updated at  
 52 a permanency hearing unless the child will achieve  
 53 permanency within a specified timeframe; amending s.  
 54 39.806, F.S.; specifying that grounds for termination  
 55 of parental rights may be established when a case plan  
 56 is materially breached by a parent or parents' action  
 57 or inaction; amending s. 39.811, F.S.; requiring the  
 58 court to enter a written order of disposition within a

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59 specified timeframe following termination of parental  
60 rights; providing an effective date.

61  
62 Be It Enacted by the Legislature of the State of Florida:

63  
64 Section 1. Subsection (7) of section 39.001, Florida  
65 Statutes, is amended, paragraph (q) is added to subsection (1)  
66 of that section, and paragraph (j) is added to subsection (3) of  
67 that section, to read:

68 39.001 Purposes and intent; personnel standards and  
69 screening.-

70 (1) PURPOSES OF CHAPTER.-The purposes of this chapter are:

71 (q) To recognize the responsibility of:

72 1. The parent from whose custody a child has been taken to  
73 take action to comply with the case plan so reunification with  
74 the child may occur within the shortest period of time possible,  
75 but no later than 1 year after removal or adjudication of the  
76 child.

77 2. The department and its community-based care providers to  
78 make reasonable efforts to finalize a family's permanency plan,  
79 including assisting parents with developing strategies to  
80 overcome barriers to case plan compliance.

81 3. The court to affirmatively determine what the barriers  
82 are to timely reunification and address such barriers as  
83 frequently as needed to ensure compliance with the time  
84 limitations established in this chapter.

85 (3) GENERAL PROTECTIONS FOR CHILDREN.-It is a purpose of  
86 the Legislature that the children of this state be provided with  
87 the following protections:

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88 (j) The ability to contact their guardian ad litem or  
89 attorney ad litem, if appointed, by having that individual's  
90 name entered on all orders of the court.

91 (7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.-  
92 Parents, custodians, and guardians are deemed by the state to be  
93 responsible for providing their children with sufficient  
94 support, guidance, and supervision. The state further recognizes  
95 that the ability of parents, custodians, and guardians to  
96 fulfill those responsibilities can be greatly impaired by  
97 economic, social, behavioral, emotional, and related problems.  
98 It is therefore the policy of the Legislature that it is the  
99 state's responsibility to ensure that factors impeding the  
100 ability of caregivers to fulfill their responsibilities are  
101 identified through the dependency process and that appropriate  
102 recommendations and services to address those problems are  
103 considered in any judicial or nonjudicial proceeding. The  
104 Legislature also recognizes that time is of the essence for  
105 establishing permanency for a child in the dependency system.  
106 Therefore, parents must take action to comply with the case plan  
107 so reunification with the child may occur within the shortest  
108 period of time possible, but no later than 1 year after removal  
109 or adjudication of the child, including by notifying the parties  
110 and the court of barriers to case plan compliance.

111 Section 2. Section 39.0136, Florida Statutes, is amended to  
112 read:

113 39.0136 Time limitations; continuances.-

114 (1) The Legislature finds that time is of the essence for  
115 establishing permanency for a child in the dependency system.  
116 Time limitations are a right of the child which may not be

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117 waived, extended, or continued at the request of any party  
118 except as provided in this section.

119 (2) (a) All parties and the court must work together to  
120 ensure that permanency is achieved as soon as possible for every  
121 child through timely performance of their responsibilities under  
122 this chapter.

123 (b) The department shall ensure that parents have the  
124 information necessary to contact their case manager. When a new  
125 case manager is assigned to a case, the case manager must make a  
126 timely and diligent effort to notify the parent and provide  
127 updated contact information.

128 (3) (2) The time limitations in this chapter do not include:

129 (a) Periods of delay resulting from a continuance granted  
130 at the request of the child's counsel or the child's guardian ad  
131 litem or, if the child is of sufficient capacity to express  
132 reasonable consent, at the request or with the consent of the  
133 child. The court must consider the best interests of the child  
134 when determining periods of delay under this section.

135 (b) Periods of delay resulting from a continuance granted  
136 at the request of any party if the continuance is granted:

137 1. Because of an unavailability of evidence that is  
138 material to the case if the requesting party has exercised due  
139 diligence to obtain evidence and there are substantial grounds  
140 to believe that the evidence will be available within 30 days.  
141 However, if the requesting party is not prepared to proceed  
142 within 30 days, any other party may move for issuance of an  
143 order to show cause or the court on its own motion may impose  
144 appropriate sanctions, which may include dismissal of the  
145 petition.

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146 2. To allow the requesting party additional time to prepare  
147 the case and additional time is justified because of an  
148 exceptional circumstance.

149 (c) Reasonable periods of delay necessary to accomplish  
150 notice of the hearing to the child's parent or legal custodian;  
151 however, the petitioner shall continue regular efforts to  
152 provide notice to the parents during the periods of delay.

153 (4) (3) Notwithstanding subsection (3) (2), in order to  
154 expedite permanency for a child, the total time allowed for  
155 continuances or extensions of time, including continuances or  
156 extensions by the court on its own motion, may not exceed 60  
157 days within any 12-month period for proceedings conducted under  
158 this chapter. A continuance or extension of time may be granted  
159 only for extraordinary circumstances in which it is necessary to  
160 preserve the constitutional rights of a party or if substantial  
161 evidence exists to demonstrate that without granting a  
162 continuance or extension of time the child's best interests will  
163 be harmed.

164 (5) (4) Notwithstanding subsection (3) (2), a continuance or  
165 an extension of time is limited to the number of days absolutely  
166 necessary to complete a necessary task in order to preserve the  
167 rights of a party or the best interests of a child.

168 Section 3. Paragraph (f) of subsection (14) and subsections  
169 (15) and (18) of section 39.402, Florida Statutes, are amended  
170 to read:

171 39.402 Placement in a shelter.—

172 (14) The time limitations in this section do not include:

173 (f) Continuances or extensions of time may not total more  
174 than 60 days for all parties and the court on its own motion

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175 within any 12-month period during proceedings under this  
 176 chapter. A continuance or extension beyond the 60 days may be  
 177 granted only for extraordinary circumstances necessary to  
 178 preserve the constitutional rights of a party or when  
 179 substantial evidence demonstrates that the child's best  
 180 interests will be affirmatively harmed without the granting of a  
 181 continuance or extension of time.

182 (15) The department, at the conclusion of the shelter  
 183 hearing, shall make available to parents or legal custodians  
 184 seeking voluntary services, any referral information necessary  
 185 for participation in such identified services to allow the  
 186 parents or legal custodians to begin the services as soon as  
 187 possible. The parents' or legal custodians' participation in the  
 188 services ~~may shall~~ not be considered an admission or other  
 189 acknowledgment of the allegations in the shelter petition.

190 (18) The court shall advise the parents in plain language  
 191 what is expected of them to achieve reunification with their  
 192 child, including that:

193 (a) Parents must take action to comply with the case plan  
 194 so reunification with the child may occur within the shortest  
 195 period of time possible, but no later than 1 year after removal  
 196 or adjudication of the child.

197 (b) Parents must stay in contact with their attorney and  
 198 their case manager and provide updated contact information if  
 199 the parents' phone number, address, or e-mail address changes.

200 (c) Parents must notify the parties and the court of  
 201 barriers to completing case plan tasks within a reasonable time  
 202 after discovering such barriers.

203 (d) If the parents fail to substantially comply with the

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204 case plan, their parental rights may be terminated and that the  
 205 child's out-of-home placement may become permanent.

206 Section 4. Paragraph (c) of subsection (7) of section  
 207 39.507, Florida Statutes, is amended to read:

208 39.507 Adjudicatory hearings; orders of adjudication.—  
 209 (7)

210 (c) If a court adjudicates a child dependent and the child  
 211 is in out-of-home care, the court shall inquire of the parent or  
 212 parents whether the parents have relatives who might be  
 213 considered as a placement for the child. The parent or parents  
 214 shall provide the court and all parties with identification and  
 215 location information for such relatives. The court shall advise  
 216 the parents in plain language that:

217 1. Parents must take action to comply with the case plan so  
 218 reunification with the child may occur within the shortest  
 219 period of time possible, but no later than 1 year after removal  
 220 or adjudication of the child.

221 2. Parents must stay in contact with their attorney and  
 222 their case manager and provide updated contact information if  
 223 the parents' phone number, address, or e-mail address changes.

224 3. Parents must notify the parties and the court of  
 225 barriers to completing case plan tasks within a reasonable time  
 226 after discovering such barriers.

227 4. If the parents fail to substantially comply with the  
 228 case plan, their parental rights may be terminated and that the  
 229 child's out-of-home placement may become permanent. ~~The parent~~  
 230 ~~or parents shall provide to the court and all parties~~  
 231 ~~identification and location information of the relatives.~~

232 Section 5. Paragraph (a) of subsection (1) of section

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233 39.521, Florida Statutes, is amended to read:

234 39.521 Disposition hearings; powers of disposition.—

235 (1) A disposition hearing shall be conducted by the court,  
 236 if the court finds that the facts alleged in the petition for  
 237 dependency were proven in the adjudicatory hearing, or if the  
 238 parents or legal custodians have consented to the finding of  
 239 dependency or admitted the allegations in the petition, have  
 240 failed to appear for the arraignment hearing after proper  
 241 notice, or have not been located despite a diligent search  
 242 having been conducted.

243 (a) A written case plan and a family functioning assessment  
 244 prepared by an authorized agent of the department must be  
 245 approved by the court. The department must file the case plan  
 246 and the family functioning assessment with the court, serve  
 247 copies ~~a copy of the case plan~~ on the parents of the child, and  
 248 provide copies ~~a copy of the case plan to the representative of~~  
 249 ~~the guardian ad litem program, if the program has been~~  
 250 ~~appointed, and a copy~~ to all other parties:

251 1. Not less than 72 hours before the disposition hearing,  
 252 if the disposition hearing occurs on or after the 60th day after  
 253 the date the child was placed in out-of-home care. All such case  
 254 plans must be approved by the court.

255 2. Not less than 72 hours before the case plan acceptance  
 256 hearing, if the disposition hearing occurs before the 60th day  
 257 after the date the child was placed in out-of-home care and a  
 258 case plan has not been submitted pursuant to this paragraph, or  
 259 if the court does not approve the case plan at the disposition  
 260 hearing. The case plan acceptance hearing must occur within 30  
 261 days after the disposition hearing to review and approve the

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262 case plan.

263 Section 6. Subsection (1) of section 39.522, Florida  
 264 Statutes, is amended to read:

265 39.522 Postdisposition change of custody.—The court may  
 266 change the temporary legal custody or the conditions of  
 267 protective supervision at a postdisposition hearing, without the  
 268 necessity of another adjudicatory hearing.

269 (1) At any time before a child achieves the permanency  
 270 placement approved at the permanency hearing, a child who has  
 271 been placed in the child's own home under the protective  
 272 supervision of an authorized agent of the department, in the  
 273 home of a relative, in the home of a legal custodian, or in some  
 274 other place may be brought before the court by the department or  
 275 by any other interested person, upon the filing of a motion  
 276 ~~petition~~ alleging a need for a change in the conditions of  
 277 protective supervision or the placement. If the parents or other  
 278 legal custodians deny the need for a change, the court shall  
 279 hear all parties in person or by counsel, or both. Upon the  
 280 admission of a need for a change or after such hearing, the  
 281 court shall enter an order changing the placement, modifying the  
 282 conditions of protective supervision, or continuing the  
 283 conditions of protective supervision as ordered. The standard  
 284 for changing custody of the child shall be the best interest of  
 285 the child. When applying this standard, the court shall consider  
 286 the continuity of the child's placement in the same out-of-home  
 287 residence as a factor when determining the best interests of the  
 288 child. If the child is not placed in foster care, then the new  
 289 placement for the child must meet the home study criteria and  
 290 court approval pursuant to this chapter.

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291 Section 7. Present subsections (4) through (8) of section  
 292 39.6011, Florida Statutes, are redesignated as subsections (5)  
 293 through (9), respectively, paragraph (e) of subsection (2) and  
 294 present subsection (6) of that section are amended, and a new  
 295 subsection (4) is added to that section, to read:

296 39.6011 Case plan development.—

297 (2) The case plan must be written simply and clearly in  
 298 English and, if English is not the principal language of the  
 299 child's parent, to the extent possible in the parent's principal  
 300 language. Each case plan must contain:

301 (e) A written notice to the parent that it is the parent's  
 302 responsibility to take action to comply with the case plan so  
 303 reunification with the child may occur within the shortest  
 304 period of time possible, but no later than 1 year after removal  
 305 or adjudication of the child; the parent must notify the parties  
 306 and the court in writing of barriers to completing case plan  
 307 tasks within a reasonable time after discovering such barriers  
 308 if the parties are not actively working to overcome them;  
 309 failure of the parent to substantially comply with the case plan  
 310 may result in the termination of parental rights; ~~and that~~ a  
 311 material breach of the case plan by the parent's action or  
 312 inaction may result in the filing of a petition for termination  
 313 of parental rights sooner than the compliance period set forth  
 314 in the case plan.

315 (4) Before signing the case plan, the department shall  
 316 explain the provisions of the plan to all persons involved in  
 317 its implementation, including, when appropriate, the child. The  
 318 department shall ensure that the parent has contact information  
 319 for all entities necessary to complete the tasks in the plan.

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320 The department shall explain the strategies included in the plan  
 321 which the parent can use to overcome barriers to case plan  
 322 compliance and shall explain that if a barrier is discovered and  
 323 the parties are not actively working to overcome such barrier,  
 324 the parent must notify the parties and the court in writing  
 325 within a reasonable time after discovering such barrier.

326 ~~(7)(6)~~ After the case plan has been developed, the  
 327 department shall adhere to the following procedural  
 328 requirements:

329 (a) If the parent's substantial compliance with the case  
 330 plan requires the department to provide services to the parents  
 331 or the child and the parents agree to begin compliance with the  
 332 case plan before the case plan's acceptance by the court, the  
 333 department shall make the appropriate referrals for services  
 334 that will allow the parents to begin the agreed-upon tasks and  
 335 services immediately.

336 (b) All other referrals for services must be completed as  
 337 soon as possible, but no later than 7 days after the date of the  
 338 case plan approval, unless the case plan specifies that a task  
 339 may not be undertaken until another specified task has been  
 340 completed or otherwise approved by the court.

341 ~~(c)(b)~~ After the case plan has been agreed upon and signed  
 342 by the parties, a copy of the plan must be given immediately to  
 343 the parties, including the child if appropriate, and to other  
 344 persons as directed by the court.

345 1. A case plan must be prepared, but need not be submitted  
 346 to the court, for a child who will be in care no longer than 30  
 347 days unless that child is placed in out-of-home care a second  
 348 time within a 12-month period.

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349 2. In each case in which a child has been placed in out-of-  
 350 home care, a case plan must be prepared within 60 days after the  
 351 department removes the child from the home and shall be  
 352 submitted to the court before the disposition hearing for the  
 353 court to review and approve.

354 3. After jurisdiction attaches, all case plans must be  
 355 filed with the court, and a copy provided to all the parties  
 356 whose whereabouts are known, not less than 3 business days  
 357 before the disposition hearing. The department shall file with  
 358 the court, and provide copies to the parties, all case plans  
 359 prepared before jurisdiction of the court attached.

360 Section 8. Paragraph (b) of subsection (1) of section  
 361 39.6012, Florida Statutes, is amended to read:

362 39.6012 Case plan tasks; services.—

363 (1) The services to be provided to the parent and the tasks  
 364 that must be completed are subject to the following:

365 (b) The case plan must describe each of the tasks with  
 366 which the parent must comply and the services to be provided to  
 367 the parent, specifically addressing the identified problem,  
 368 including:

369 1. The type of services or treatment.

370 2. The date the department will provide each service or  
 371 referral for the service if the service is being provided by the  
 372 department or its agent.

373 3. The date by which the parent must complete each task.

374 4. The frequency of services or treatment provided. The  
 375 frequency of the delivery of services or treatment provided  
 376 shall be determined by the professionals providing the services  
 377 or treatment on a case-by-case basis and adjusted according to

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378 their best professional judgment.

379 5. The location of the delivery of the services.

380 6. The staff of the department or service provider  
 381 accountable for the services or treatment.

382 7. A description of the measurable objectives, including  
 383 the timeframes specified for achieving the objectives of the  
 384 case plan and addressing the identified problem.

385 8. Strategies to overcome barriers to case plan compliance  
 386 and an explanation that the parent must notify the parties and  
 387 the court in writing within a reasonable time after discovering  
 388 a barrier that the parties are not actively working to overcome  
 389 such barrier.

390 Section 9. Subsection (8) of section 39.6013, Florida  
 391 Statutes, is amended to read:

392 39.6013 Case plan amendments.—

393 (8) Amendments must include service interventions that are  
 394 the least intrusive into the life of the parent and child, must  
 395 focus on clearly defined objectives, and must provide the most  
 396 efficient path to quick reunification or permanent placement  
 397 given the circumstances of the case and the child's need for  
 398 safe and proper care. A copy of the amended plan must be  
 399 immediately given to the persons identified in s. 39.6011(7)(c)  
 400 ~~s. 39.6011(6)(b)~~.

401 Section 10. Present subsections (7) through (10) of section  
 402 39.621, Florida Statutes, are redesignated as subsections (8)  
 403 through (11), respectively, present subsections (9), (10), and  
 404 (11) of that section are amended, and a new subsection (7) is  
 405 added to that section, to read:

406 39.621 Permanency determination by the court.—

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407 (7) If the court determines that the child's goal is  
 408 appropriate but the child will be in out-of-home care for more  
 409 than 12 months before achieving permanency, in those cases where  
 410 the goal is reunification or adoption, the court must hold  
 411 permanency status hearings for the child every 60 days until the  
 412 child reaches the specified permanency goal or the court  
 413 determines it is in the child's best interest to change the  
 414 permanency goal.

415 (10)(9) The case plan must list the tasks necessary to  
 416 finalize the permanency placement and shall be updated at the  
 417 permanency hearing unless the child will achieve permanency  
 418 within 60 days after the hearing if necessary. If a concurrent  
 419 case plan is in place, the court may choose between the  
 420 permanency goal options presented and shall approve the goal  
 421 that is in the child's best interest.

422 (11)(10) The permanency placement is intended to continue  
 423 until the child reaches the age of majority and may not be  
 424 disturbed absent a finding by the court that the circumstances  
 425 of the permanency placement are no longer in the best interest  
 426 of the child.

427 (a) If, after a child has achieved the permanency placement  
 428 approved at the permanency hearing, a parent who has not had his  
 429 or her parental rights terminated makes a motion for  
 430 reunification or increased contact with the child, the court  
 431 shall hold a hearing to determine whether the dependency case  
 432 should be reopened and whether there should be a modification of  
 433 the order.

434 (b) At the hearing, the parent must demonstrate that the  
 435 safety, well-being, and physical, mental, and emotional health

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436 of the child is not endangered by the modification.

437 (c)(11) The court shall base its decision concerning any  
 438 motion by a parent for reunification or increased contact with a  
 439 child on the effect of the decision on the safety, well-being,  
 440 and physical and emotional health of the child. Factors that  
 441 must be considered and addressed in the findings of fact of the  
 442 order on the motion must include:

443 1.(a) The compliance or noncompliance of the parent with  
 444 the case plan;

445 2.(b) The circumstances which caused the child's dependency  
 446 and whether those circumstances have been resolved;

447 3.(e) The stability and longevity of the child's placement;

448 4.(d) The preferences of the child, if the child is of  
 449 sufficient age and understanding to express a preference;

450 5.(e) The recommendation of the current custodian; and

451 6.(f) The recommendation of the guardian ad litem, if one  
 452 has been appointed.

453 Section 11. Paragraph (e) of subsection (1) of section  
 454 39.806, Florida Statutes, is amended to read:

455 39.806 Grounds for termination of parental rights.—

456 (1) Grounds for the termination of parental rights may be  
 457 established under any of the following circumstances:

458 (e) When a child has been adjudicated dependent, a case  
 459 plan has been filed with the court, and:

460 1. The child continues to be abused, neglected, or  
 461 abandoned by the parent or parents. The failure of the parent or  
 462 parents to substantially comply with the case plan for a period  
 463 of 12 months after an adjudication of the child as a dependent  
 464 child or the child's placement into shelter care, whichever

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 465 occurs first, constitutes evidence of continuing abuse, neglect,  
 466 or abandonment unless the failure to substantially comply with  
 467 the case plan was due to the parent's lack of financial  
 468 resources or to the failure of the department to make reasonable  
 469 efforts to reunify the parent and child. The 12-month period  
 470 begins to run only after the child's placement into shelter care  
 471 or the entry of a disposition order placing the custody of the  
 472 child with the department or a person other than the parent and  
 473 the court's approval of a case plan having the goal of  
 474 reunification with the parent, whichever occurs first; or

475 2. The parent or parents have materially breached the case  
 476 plan by their action or inaction. Time is of the essence for  
 477 permanency of children in the dependency system. In order to  
 478 prove the parent or parents have materially breached the case  
 479 plan, the court must find by clear and convincing evidence that  
 480 the parent or parents are unlikely or unable to substantially  
 481 comply with the case plan before time to comply with the case  
 482 plan expires.

483 3. The child has been in care for any 12 of the last 22  
 484 months and the parents have not substantially complied with the  
 485 case plan so as to permit reunification under s. 39.522(2)  
 486 unless the failure to substantially comply with the case plan  
 487 was due to the parent's lack of financial resources or to the  
 488 failure of the department to make reasonable efforts to reunify  
 489 the parent and child.

490 Section 12. Subsection (5) of section 39.811, Florida  
 491 Statutes, is amended to read:

492 39.811 Powers of disposition; order of disposition.-

493 (5) If the court terminates parental rights, the court

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 494 shall enter a written order of disposition within 30 days after  
 495 conclusion of the hearing briefly stating the facts upon which  
 496 its decision to terminate the parental rights is made. An order  
 497 of termination of parental rights, whether based on parental  
 498 consent or after notice served as prescribed in this part,  
 499 permanently deprives the parents of any right to the child.

500 Section 13. This act shall take effect October 1, 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator David Simmons, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** February 8, 2019

---

I respectfully request that **Senate Bill #262**, relating to Child Welfare, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

---

Senator Ben Albritton  
Florida Senate, District 26

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 262

Bill Number (if applicable)

406838

Amendment Barcode (if applicable)

Topic Amendment to SB 262 - Child Welfare

Name Andrew Kalel

Job Title Legislative Affairs Director

Address 227 N. Bronough street

Phone 850 999 4655

Tallahassee FL 32301

Email andrew.kalel@regionalcounsels.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Office of Criminal Conflict & Civil Regional Counsel, Third Region

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

262

Meeting Date

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name VICTORIA ZEPP

Job Title Chief Policy + Research Officer

Address 411 E. College Ave

Phone 850/561.1102

Street

Email VICTORIA@FLCHILDREN.ORG

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing FL Coalition for Children

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

262

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane

Phone 322 3317

Street

Tally

State

32303

Zip

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [X] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/2019

*Meeting Date*

SB 262

*Bill Number (if applicable)*

Topic Child Welfare

*Amendment Barcode (if applicable)*

Name Alan Abramowitz

Job Title Executive Director

Address 600 S. Calhoun Street

Phone 850.241.3232

*Street*

Tallahassee

Florida

32399

Email alan.abramowitz@gal.fl.gov

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Statewide Guardian ad Litem Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

262

Bill Number (if applicable)

Meeting Date

Topic Child Welfare

Amendment Barcode (if applicable)

Name MIKE CARROLL

Job Title Exec V. President

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Lutheran Services Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 262

Bill Number (if applicable)

Topic Family

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr

Phone

Street

Largo

City

Fla

State

33773

Zip

Email

Speaking: [ ] For [ ] Against [x] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Judiciary

---

BILL: CS/SB 598

INTRODUCER: Judiciary Committee and Senator Albritton

SUBJECT: Firearms

DATE: February 20, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	<b>Fav/CS</b>
2.			CJ	
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 598 allows a person who holds a concealed firearm license to carry a firearm, under limited circumstances, on a religious-institution property that also contains a school. Under current law, a school's presence on a religious-institution property makes the property off-limits for firearms.

The bill authorizes licensed carry of concealed firearms on these properties, except during "school hours" or when "curricular or extracurricular school-sponsored events are taking place on the property."

**II. Present Situation:**

**Overview**

A person who has a concealed firearm license may carry a concealed firearm on the property of a religious institution unless the property is also home to a school. This right is subject to a religious institution's authority to prohibit the carrying of firearms on its property.

## Lawful Concealed Carry of Firearms

Although the law generally prohibits a person from carrying a firearm on his or her person, this prohibition is subject to several exceptions. Of these exceptions, perhaps the most well-known and broadly applicable is the concealed firearm license.<sup>1, 2</sup>

The license authorizes a person to carry a concealed handgun “throughout the state.” However, the license does not authorize a person to carry a firearm into any of a list of places, including “school facilities and administration buildings” and “college or university facilities.” This list of places that are off-limits even for licensed carry does *not* include the property of a religious institution. So, a licensee generally may carry a concealed handgun when he or she goes to meet with his or her congregation, but not if they are meeting at a school facility or building, a college or university facility, or any other place at which licensed carry is illegal.<sup>3</sup>

To obtain a concealed firearm license, a person must submit an application to the Department of Agriculture and Consumer Services, and the Department must grant the license to each applicant who:<sup>4</sup>

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance;
- Has not been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;<sup>5</sup>

---

<sup>1</sup> As of December 31, 2018, 1,941,180 Floridians held a standard concealed firearm license. Fla. Dept. of Ag., *Number of Licensees by Type*, [http://www.freshfromflorida.com/content/download/7471/118627/Number\\_of\\_Licensees\\_By\\_Type.pdf](http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf).

<sup>2</sup> Additional exceptions to the prohibition against carrying a concealed firearm or openly carrying a firearm are created by s. 790.25(3), F.S. This statute authorizes an unlicensed individual to openly possess a firearm or to carry a concealed firearm in any of the manners described in the statute. The statute, for example, authorizes law enforcement officers to carry firearms while on duty. Additionally, the statute authorizes a person to carry a firearm while engaged in hunting, fishing, or camping or while traveling to and from these activities. A person may also possess a firearm at his or her home or place of business or in any of the other circumstances set forth in statute.

<sup>3</sup> As used in the licensing statute, the terms referring to schools, colleges, and universities are not defined. As such, the statute makes no distinction between public and private schools.

<sup>4</sup> Section 790.06(2), F.S. However, the Department must *deny* a license to an applicant who meets any criterion set forth in s. 790.06(3), F.S., which also sets forth criteria for the mandatory revocation of a license.

<sup>5</sup> See s. 790.06(2)(h), F.S., for the list of courses and other means of demonstrating competency, and for the required documentation that one must present to the state relative to this provision.

- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect which restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

While the licensing statute states that the concealed carry license “*does not authorize*” carrying into any school building or facility, another statute broadly *prohibits* the possession of a firearm on any public or private school property regardless of whether a person has a license.

### **Prohibited Possession of a Firearm on School Property**

Section 790.115, F.S., broadly prohibits a person from possessing a firearm on the property of any “school,” meaning any preschool through postsecondary school, whether public or private.<sup>6</sup> As such, property covered by the ban may even include the property of a church that hosts a voluntary prekindergarten (VPK) program.

There are three exceptions to the general ban on possessing a firearm on school property. The first allows a person to possess a firearm “as authorized in support of school-sanctioned activities.” The second exception allows a person to carry a firearm in a case to a firearms training program or to a firearms training range at a career center. The third exception generally allows a person to store a firearm inside a parked car.

The penalty for violating the ban on firearms on school property varies depending on whether the violator has a concealed firearm license.<sup>7</sup>

### **Federal Law**

The federal Gun-Free School Zones Act prohibits the possession of a firearm that has moved in or otherwise affects interstate or foreign commerce at a place an individual knows, or has reasonable cause to believe, is a school or is within 1,000 feet of a school.<sup>8</sup> However, this prohibition does not apply to a person who is licensed by his or her state to carry a concealed handgun.<sup>9</sup>

---

<sup>6</sup> It also means any career center. Section 790.115(2)(a), F.S.

<sup>7</sup> A non-licensee who willfully and knowingly possesses a firearm or other weapon commits a third degree felony, punishable by up to 5 years in prison and a fine not to exceed \$5,000. *See* ss. 790.115(b)-(c), 775.082(9)(a)3.d. and 775.083(1)(c), F.S. However, licensees who commit this crime are guilty of a lesser crime, a second degree misdemeanor, punishable by up to 60 days in jail and a fine not to exceed \$500. *See*, ss. 790.115(2)(e), 790.06(12)(d), 775.082(4)(b), and 775.083(1)(e), F.S.

<sup>8</sup> 18 U.S.C. § 922(q)(2)(A).

<sup>9</sup> *See* 18 U.S.C. § 922(q)(2)(B)(ii).

Another federal law, the Gun-Free Schools Act, is more-narrowly focused on prohibiting *students* from possessing firearms at or near schools. This prohibition is also subject to exceptions.<sup>10</sup> The act expressly states that it does not apply to a firearm “that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.”<sup>11</sup>

### **Right to Exclude Anyone Possessing a Firearm**

A religious institution is free to prohibit firearm possession on its property, regardless of whether the property also contains a school. The Florida Constitution declares that every person has the right to “acquire, possess, and protect property.”<sup>12</sup> The right to exclude others is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.”<sup>13</sup>

A person who enters the property of another without authorization commits the crime of trespass to property. The elements of trespass are set forth in s. 810.08(1), F.S., which states:

Whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.

Trespassing with a firearm is a third degree felony,<sup>14</sup> punishable by up to 5 years in prison,<sup>15</sup> 5 years of probation, and a fine not to exceed \$5,000.<sup>16</sup>

### **III. Effect of Proposed Changes:**

The bill revises concealed-firearm laws relating to properties shared by religious institutions and schools. Under current law, a school’s presence on a religious-institution property makes the property off-limits for firearms.

The bill authorizes licensed carry of concealed firearms on these properties, except during “school hours” or when “curricular or extracurricular school-sponsored events are taking place on the property.”

The permission granted in the bill is not absolute; it is subject to the right of a religious institution to prohibit the carrying of firearms on its property.

The bill takes effect July 1, 2019.

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<sup>10</sup> See 20 U.S.C. § 7961.

<sup>11</sup> 20 U.S.C. § 7961(g).

<sup>12</sup> FLA. CONST. art. I, s. 2.

<sup>13</sup> *Nollan v. Cal. Coastal Comm’n*, 483 U.S. 825, 831 (1987) (quoting *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 433 (1982)).

<sup>14</sup> Section 810.08(2)(c), F.S.

<sup>15</sup> Section 775.082(3)(e), F.S.

<sup>16</sup> Section 775.083(1)(c), F.S.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 790.115 of the Florida Statutes. The bill reenacts section 775.30 of the Florida Statutes.



**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on February 19, 2019:**

In the underlying bill, licensed concealed carry was allowed on a religious-institution property that also contains a school *only during religious services and religious events*. Under the committee substitute, licensed carry on these properties is not limited to times when religious services or religious events are taking place.

- B. **Amendments:**

None.



358568

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2019	.	
	.	
	.	
	.	

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The Committee on Judiciary (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 38 - 39  
and insert:  
a religious institution, as defined in s. 496.404, when the

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

And the title is amended as follows:

Delete lines 5 - 6

and insert:



358568

11

property of a religious institution when the

By Senator Albritton

26-00863-19

2019598\_\_

1 A bill to be entitled  
 2 An act relating to firearms; amending s. 790.115,  
 3 F.S.; authorizing a concealed weapon or concealed  
 4 firearm licensee to carry a concealed firearm on the  
 5 property of a religious institution during religious  
 6 services or religious institution events when the  
 7 property also contains a school; providing exceptions;  
 8 reenacting s. 775.30(2), F.S., relating to terrorism,  
 9 to incorporate the amendment made to s. 790.115, F.S.,  
 10 in a reference thereto; providing an effective date.  
 11  
 12 Be It Enacted by the Legislature of the State of Florida:  
 13  
 14 Section 1. Subsection (2) of section 790.115, Florida  
 15 Statutes, is amended to read:  
 16 790.115 Possessing or discharging weapons or firearms at a  
 17 school-sponsored event or on school property prohibited;  
 18 penalties; exceptions.—  
 19 (2) (a) A person may ~~shall~~ not possess a ~~any~~ firearm,  
 20 electric weapon or device, destructive device, or other weapon  
 21 as defined in s. 790.001(13), including a razor blade or box  
 22 cutter, except as authorized in support of school-sanctioned  
 23 activities, at a school-sponsored event, or on the property of  
 24 any school, school bus, or school bus stop; however, a person  
 25 may carry a firearm:  
 26 1. In a case to a firearms program, class, or function  
 27 which has been approved in advance by the principal or chief  
 28 administrative officer of the school as a program or class to  
 29 which firearms could be carried;

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26-00863-19

2019598\_\_

30 2. In a case to a career center having a firearms training  
 31 range; ~~or~~  
 32 3. In a vehicle pursuant to s. 790.25(5); except that  
 33 school districts may adopt written and published policies that  
 34 waive the exception in this subparagraph for purposes of student  
 35 and campus parking privileges; or  
 36 4. In a concealed manner, if the person is authorized to  
 37 carry a concealed firearm under s. 790.06, upon the property of  
 38 a religious institution, as defined in s. 496.404, during  
 39 religious services or religious institution events when the  
 40 property also contains a school. However, a person may not carry  
 41 a concealed firearm:  
 42 a. During school hours or when curricular or  
 43 extracurricular school-sponsored events are taking place on the  
 44 property.  
 45 b. In any place or in any manner prohibited by federal law.  
 46  
 47 For the purposes of this section, "school" means any preschool,  
 48 elementary school, middle school, junior high school, secondary  
 49 school, career center, or postsecondary school, whether public  
 50 or nonpublic.  
 51 (b) A person who willfully and knowingly possesses any  
 52 electric weapon or device, destructive device, or other weapon  
 53 as defined in s. 790.001(13), including a razor blade or box  
 54 cutter, except as authorized in support of school-sanctioned  
 55 activities, in violation of this subsection commits a felony of  
 56 the third degree, punishable as provided in s. 775.082, s.  
 57 775.083, or s. 775.084.  
 58 (c)1. A person who willfully and knowingly possesses any

Page 2 of 4

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26-00863-19

2019598\_\_

59 firearm in violation of this subsection commits a felony of the  
60 third degree, punishable as provided in s. 775.082, s. 775.083,  
61 or s. 775.084.

62 2. A person who stores or leaves a loaded firearm within  
63 the reach or easy access of a minor who obtains the firearm and  
64 commits a violation of subparagraph 1. commits a misdemeanor of  
65 the second degree, punishable as provided in s. 775.082 or s.  
66 775.083; except that this does not apply if the firearm was  
67 stored or left in a securely locked box or container or in a  
68 location which a reasonable person would have believed to be  
69 secure, or was securely locked with a firearm-mounted push-  
70 button combination lock or a trigger lock; if the minor obtains  
71 the firearm as a result of an unlawful entry by any person; or  
72 to members of the Armed Forces, National Guard, or State  
73 Militia, or to police or other law enforcement officers, with  
74 respect to firearm possession by a minor which occurs during or  
75 incidental to the performance of their official duties.

76 (d) A person who discharges any weapon or firearm while in  
77 violation of paragraph (a), unless discharged for lawful defense  
78 of himself or herself or another or for a lawful purpose,  
79 commits a felony of the second degree, punishable as provided in  
80 s. 775.082, s. 775.083, or s. 775.084.

81 (e) The penalties of this subsection shall not apply to  
82 persons licensed under s. 790.06. Persons licensed under s.  
83 790.06 shall be punished as provided in s. 790.06(12), except  
84 that a licenseholder who unlawfully discharges a weapon or  
85 firearm on school property as prohibited by this subsection  
86 commits a felony of the second degree, punishable as provided in  
87 s. 775.082, s. 775.083, or s. 775.084.

Page 3 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26-00863-19

2019598\_\_

88 Section 2. For the purpose of incorporating the amendment  
89 made by this act to section 790.115, Florida Statutes, in a  
90 reference thereto, subsection (2) of section 775.30, Florida  
91 Statutes, is reenacted to read:

92 775.30 Terrorism; defined; penalties.—

93 (2) A person who violates s. 782.04(1)(a)1. or (2), s.  
94 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s.  
95 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16,  
96 s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s.  
97 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s.  
98 859.01, or s. 876.34, in furtherance of intimidating or coercing  
99 the policy of a government, or in furtherance of affecting the  
100 conduct of a government by mass destruction, assassination, or  
101 kidnapping, commits the crime of terrorism, a felony of the  
102 first degree, punishable as provided in s. 775.082, s. 775.083,  
103 or s. 775.084.

104 Section 3. This act shall take effect July 1, 2019.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

## Committee Agenda Request

**To:** Senator David Simmons, Chair  
Committee on Judiciary

**Subject:** Committee Agenda Request

**Date:** February 8, 2019

---

I respectfully request that **Senate Bill #598**, relating to Firearms, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

---

Senator Ben Albritton  
Florida Senate, District 26

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/19/19

Meeting Date

598

Bill Number (if applicable)

Topic SB 598

Amendment Barcode (if applicable)

Name Aleta Jarrett

Job Title Registered Nurse

Address 2934 Abbotsford Way

Phone (850) 545-8469

Tallahassee FL 32312

City State Zip

Email aletacore@comcast.net

Speaking: [ ] For [X] Against [ ] Information

Waive Speaking: [ ] In Support [X] Against (The Chair will read this information into the record.)

Representing self as an employed nurse in schools

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 598

Bill Number (if applicable)

Topic Guns in Religious inst. / schools

Amendment Barcode (if applicable)

Name Brendalee Lennick

Job Title Retired USN

Address 4200 E Park Ave #33

Phone 850-533-2947

Street

Tallahassee FL 32301

City

State

Zip

Email ms.sapience@gmail

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Moms Demand Action/Veterans For Peace

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19  
Meeting Date

SB 598  
Bill Number (if applicable)

Topic firearms

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title \_\_\_\_\_

Address 579 E. Coll St.

Phone 850-321-9386

Tallahassee, FL 32301  
Street City State Zip

Email fctep@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

598

Bill Number (if applicable)

Topic ~~Child Welfare~~ Fire Arms

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri-La Lane

Phone 322 3317

Street

Tally State 32303

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing League Women Voters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 598  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Topic Church Security

Name GORDON SMITH

Job Title SHERIFF BRADFORD COUNTY

Address 945 N. Temple Ave

Phone 352-494-3328

Starke, FL 32091  
Street City State Zip

Email gordon-smith@bradfordsheriff.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

598

Bill Number (if applicable)

Topic Guns in schools/churches

Amendment Barcode (if applicable)

Name Shannon Guse

Job Title Volunteer

Address \_\_\_\_\_  
Street

Phone 694-2685

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Moms Demand Action

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

February 19, 2019

SB-598

*Meeting Date*

*Bill Number (if applicable)*

Topic Firearms on Private Property of Religious Institutions

*Amendment Barcode (if applicable)*

Name Marion P. Hammer

Job Title \_\_\_\_\_

Address P.O. Box 1387

Phone 850-222-9518

*Street*

Tallahassee

Florida

32302

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing National Rifle Association & Unified Sportsmen of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

5/6/19 2019

Meeting Date

598

Bill Number (if applicable)

Topic Firearms on Church Property

Amendment Barcode (if applicable)

Name Roy Blondeau

Job Title Attorney at Law

Address 6712 BUCK LAKE ROAD

Phone 810-877-9599

Street

TALLAHASSEE FL 32317

City State Zip

Email RFBLO@comcast.net

Speaking: [ ] For [X] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 598

Bill Number (if applicable)

Topic Firearm

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.

Phone

Street

Largo FL 33773

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

596

Bill Number (if applicable)

Topic Church Security Bill

Amendment Barcode (if applicable)

Name Sheriff Wayne Ivey

Job Title Sheriff

Address 7005 S. Park Ave

Phone (321) 427-7231

Street

Tiawahville A

City

State

Zip

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Brevard County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-19-19 Meeting Date

SB 598 Bill Number (if applicable)

Topic Guns in Religious Institutions

Amendment Barcode (if applicable)

Name Liza Buckley

Job Title Teacher

Address 911 Blackwood Ave

Phone 850-523-0187

Street

Tallahassee

FL

32302

Email lizambuck@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/19  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 598  
Bill Number (if applicable)

Topic Guns in Religious Institution

Amendment Barcode (if applicable)

Name Teri Bahn

Job Title \_\_\_\_\_

Address 1429 Manor House Dr

Phone 950-728-5198

Tallahassee FL 32312  
City State Zip

Email ohbobyitsteria@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Moms Demand Action

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

598

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Spike Gram

Job Title outraged citizen

Address 1808 Chowkeebin Nene

Phone \_\_\_\_\_

Street

Tallahassee FL 32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Stone Soup Street Action

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

598

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic

Name Ruth Chase

Job Title distressed citizen

Address 9540 Oak Hollow Trl

Phone

Street

Tallahassee

32309

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Stone Soup Street Action Committee

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 598

Bill Number (if applicable)

Topic Firarms in Religious Institutions

Amendment Barcode (if applicable)

Name David Sleeth

Job Title Engage FL Legislative Director

Address 1639 Cory Wood Circle

Phone 305-587-3405

Street

Tallahassee

FL

State

32304

Zip

Email dsleeth@engageus.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Engage FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/19/19

Meeting Date

SB 598

Bill Number (if applicable)

Topic firearms in Religion Institutes

Amendment Barcode (if applicable)

Name Ramy Naseir

Job Title

Address 1631 Cory Wood Circle

Phone 850 454 1519

Street

Tallahassee

FL

32304

Email ramywnaseir@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 256

INTRODUCER: Senator Baxley

SUBJECT: Child Protection Teams

DATE: February 18, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Favorable</u>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 256 extends sovereign immunity protections to any member of a child protection team when the team member is carrying out her or his duties.

A child protection team is a group of professionals who receive referrals, primarily from child protective investigators and sheriff's offices, when child abuse, abandonment, or neglect is alleged. The team, directed by a physician, evaluates the allegations, assesses risks, and provides recommendations for child safety and support services.

The bill takes effect July 1, 2019.

**II. Present Situation:**

**Sovereign Immunity**

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of those governments unless the immunity is expressly waived.

Article X, section 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state.

Under this statute, officers, employees, and agents of the state may not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. Instead, the state steps in as the party litigant and defends against the claim. However, people

may be held personally liable for acts committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The recovery by any one person is limited to \$200,000 for one incident and the total for all recoveries related to one incident is limited to \$300,000.<sup>1</sup> The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps, but the plaintiff is not entitled to recover the excess damages without action by the Legislature.<sup>2</sup>

## **Child Protection Teams**

### *Description*

The Department of Health currently contracts with 22 independent, community-based organizations that serve as child protection teams.<sup>3</sup> A child protection team is a group of professionals, directed by a physician, who receive referrals from the investigators of the Department of Children and Families (DCF) and sheriff's offices when child abuse or neglect is alleged.<sup>4</sup> The teams perform medical evaluations, assess risks, and provide recommendations for child safety and support services.

### *Composition and Responsibilities*

Each of the 22 teams operates under the oversight of a medical director who is a board-certified pediatrician with special training in child abuse and neglect. In the case of a large geographical areas, some may have an associate medical director to ensure adequate coverage. The physician must be approved by Children's Medical Services at the Department of Health (DOH). Teams consist of additional physicians, attorneys, advanced registered nurse practitioners, psychologists, physician assistants,<sup>5</sup> registered nurses, team coordinators, support staff, case coordinators, and support and data personnel.<sup>6</sup>

Each office must be available 24 hours per day, every day, to provide immediate medical diagnosis and evaluation, for consultations by phone, or for other assessment services. The groups that the teams target for assessments are children who may be physically abused, sexually abused, and those who lack health care, including medically neglected children.<sup>7</sup>

### *Services*

When a child protection team accepts a referral from DCF or law enforcement, the team may provide these services:

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<sup>1</sup> Section 768.28(5), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Florida Department of Health, *Senate Bill 256 Agency Legislative Bill Analysis* (Jan. 8, 2019) (on file with the Senate Committee on Judiciary).

<sup>4</sup> Department of Health, Children's Medical Services, *Child Protection Teams*, [http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child\\_protection\\_safety/child\\_protection\\_teams.html](http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html) and s. 39.303(3), F.S.

<sup>5</sup> Florida Department of Health, Children's Medical Services, *Child Protection Team Program Handbook*, 6-7 (June 2015) [http://www.floridahealth.gov/AlternateSites/CMS-Kids/providers/prevention/documents/handbook\\_cpt.pdf](http://www.floridahealth.gov/AlternateSites/CMS-Kids/providers/prevention/documents/handbook_cpt.pdf).

<sup>6</sup> See note 3, *supra*.

<sup>7</sup> Florida Department of Health, Children's Medical Services, *Child Protection Team Program Handbook*, 4 (June 2015) [http://www.floridahealth.gov/AlternateSites/CMS-Kids/providers/prevention/documents/handbook\\_cpt.pdf](http://www.floridahealth.gov/AlternateSites/CMS-Kids/providers/prevention/documents/handbook_cpt.pdf)



- Medical diagnosis and evaluation services;
- Nursing assessments;
- Child and family social assessments;
- Multidisciplinary case staffings;
- Psychological and psychiatric diagnosis and evaluations;
- Specialized and forensic interviews; and
- Expert medical, psychological, and related professional testimony in court cases.<sup>8</sup>

### ***Cases that must be referred to a Child Protection Team***

The following cases involving child abuse, abandonment, or neglect that are reported to the Child Abuse Hotline must be referred to a child protection team:

- Head injuries, bruises to the head or neck, burns, or fractures in a child, regardless of age.
- Bruises that appear anywhere on a child who is five years old or younger.
- Alleged child sexual abuse.
- A sexually transmitted disease that occurs in a prepubescent child.
- Reported malnutrition or failure to thrive.
- Medical neglect.
- Instances of a child or sibling remaining in a home where a child has been pronounced dead on arrival at a hospital or a child has been injured and then died due to suspected abuse, abandonment, or neglect.
- Symptoms of serious emotional issues occurring in a child where emotional or other forms of abuse, abandonment, or neglect are suspected.<sup>9</sup>

### ***Funding***

The Child Protection Team Program receives funding through the Department of Health, Division of Children's Medical Services.<sup>10</sup>

### ***Employees and Sovereign Immunity***

According to the Department of Health, the state's child protection teams have approximately 364 team members<sup>11</sup> who are employed by private, non-profit entities. Of the 22 child protection teams, five teams are employees of a governmental entity and *are covered* by sovereign immunity. Those teams, composed of 126 members, are: the University of Florida in Gainesville team, the University of Florida in Jacksonville team, the University of Miami team, the University of South Florida team, and the Broward County team, whose members are employees of the Broward County Sheriff's Office. The remaining 238 employees who make up the other 17 teams are independent contractors and *are not* covered by sovereign immunity in tort

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<sup>8</sup> See note 4, *supra*, and s. 39.303, F.S.

<sup>9</sup> Section 39.303(4), F.S.

<sup>10</sup> Florida Department of Health, Children's Medical Services, *Child Protection Team Program Handbook*, 4 (June 2015) [http://www.floridahealth.gov/AlternateSites/CMS-Kids/providers/prevention/documents/handbook\\_cpt.pdf](http://www.floridahealth.gov/AlternateSites/CMS-Kids/providers/prevention/documents/handbook_cpt.pdf). The Department of Health, Division of Children's Medical Services, Bureau of Child Protection and Special Technologies staff oversees the statewide Child Protection Team system.

<sup>11</sup> According to the Department of Health, the 364 employees figure does not include the child protection team medical directors.

actions.<sup>12</sup> The teams that do not receive sovereign immunity protection must purchase their own liability coverage.

### ***Lawsuits Filed Against Child Protection Teams***

The Division of Risk Management within the Chief Financial Officer's office queried its files for recent lawsuits involving child protection teams. For fiscal years 2016-2017, 2017-2018, and the current year to date, the Division of Risk Management was not able to identify a lawsuit filed against a government employed child protection team.<sup>13</sup>

### **Sovereign Immunity and Child Protection Team Physicians**

It is not definitively settled whether all child protection team *physicians* are covered under sovereign immunity. Whether sovereign immunity applies depends on the degree of control that the state maintains over the agent. In *Stoll v. Noel*,<sup>14</sup> the Florida Supreme Court explained that, under the appropriate circumstances, independent contractor physicians may be agents of the state for purposes of sovereign immunity:

One who contracts on behalf of another and subject to the other's control except with respect to his physical conduct is an agent and also independent contractor.<sup>15</sup>

The *Stoll* Court examined the employment contract between the Children's Medical Services (CMS) physicians and the state to determine whether the state's right to control was sufficient to create an agency relationship and held that it did. The manuals and guides given to physician consultants demonstrated that CMS had final authority over all care and treatment provided to CMS patients, and that CMS could refuse to allow a physician consultant's recommended course of treatment of any CMS patient for either medical or budgetary reasons. Furthermore, the Court's conclusion was supported by the state's acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and the state acknowledged full financial responsibility for the physicians' actions. The Court noted that the state's interpretation of its manual is entitled to judicial deference and great weight.<sup>16</sup>

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<sup>12</sup> See note 3, *supra*.

<sup>13</sup> Email prepared by Molly C. Merry, CPA, Director, Division of Risk Management, and forwarded by Chase Mitchell, Office of Legislative Affairs, Office of the Chief Financial Officer (Feb. 16, 2019) (on file with the Senate Committee on Judiciary). Risk Management noted that it did not have a specific code in its system that identified child protection teams that were involved in lawsuits. In updating a 2016 report, the workers queried all cases against DCF since July 1, 2012, and used cause codes such as child abuse, failure to protect, wrongful death by a foster parent, or similar category. The liability adjusters found no reported cases related to child protection teams in fiscal years 2016-2017 to the present. In fiscal years 2013-2014 through 2015-2016 notices were filed that litigation might ensue, but no lawsuits have been filed on those notices. One lawsuit was filed in 2013-2014 and one lawsuit was filed in 2015-2016. The email shows that earlier lawsuits were filed dating back to fiscal year 2006-2007, but it is not readily apparent the extent to which child protections teams were named in the litigation.

<sup>14</sup> *Stoll v. Noel*, 694 So. 2d 701 (Fla. 1997).

<sup>15</sup> *Id.* at 703, quoting from the *Restatement (Second) of Agency* s. 14N (1957).

<sup>16</sup> *Id.*

**III. Effect of Proposed Changes:**

The bill amends s. 768.28(9)(b), F.S., by adding “any member of a child protection team, as defined in s. 39.01, when carrying out her or his duties as a team member” to the definition of “officer, employee or agent.” As a result, the bill defines members of child protection teams as officers, employees, or agents of the state and entitles them to the state’s sovereign immunity protections.

The bill takes effect July 1, 2019.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Under SB 256, members of a child protection team who are under contract would be provided sovereign immunity protections, which may reduce the need for these members of the teams to purchase liability insurance.

**C. Government Sector Impact:**

The Department of Health estimates that the fiscal impact of providing sovereign immunity coverage to child protection teams cannot be determined but might be

significant. Potential costs to the Department could include legal representation, the cost to settle a suit, and related litigation expenses. Because 126 of the 364 statewide CPT employees are already covered by sovereign immunity, the number of additional employees contributing to any potential fiscal impact is approximately 238.<sup>17</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 768.28 Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>17</sup>Florida Department of Health, *Senate Bill 256 Agency Legislative Bill Analysis* (Jan. 8, 2019) (on file with the Senate Committee on Judiciary).



162110

LEGISLATIVE ACTION

Senate

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. .

House

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The Committee on Judiciary (Baxley) recommended the following:

**Senate Amendment**

Delete line 57

and insert:

team member under the control, direction, and supervision of the  
state or any of its agencies or subdivisions.

By Senator Baxley

12-00534-19

2019256\_\_

A bill to be entitled

An act relating to child protection teams; amending s. 768.28, F.S.; revising the definition of the term "officer, employee, or agent," as it applies to immunity from personal liability in certain actions, to include any member of a child protection team established by the Department of Health in certain circumstances; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (9) of section 768.28, Florida Statutes, are amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(9) (a) An ~~Ne~~ officer, employee, or agent of the state or of any of its subdivisions may not ~~shall~~ be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

12-00534-19

2019256\_\_

remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers is ~~shall be~~ by action against the governmental entity, or the head of such entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions are ~~shall not be~~ liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115; any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, and its employees or agents, when providing patient services pursuant to paragraph (10)(f); ~~and~~ any public defender or her or his employee or agent, including, ~~among others,~~ an assistant public defender or ~~and~~ an investigator; and any member of a child protection team, as defined in s. 39.01, when carrying out her or his duties as a team member.

Section 2. This act shall take effect July 1, 2019.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

# THE FLORIDA SENATE

**COMMITTEES:**  
Ethics and Elections, *Chair*  
Appropriations Subcommittee on Education  
Education  
Finance and Tax  
Health Policy  
Judiciary

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee

## SENATOR DENNIS BAXLEY

12th District

February 5, 2019

The Honorable Chair David Simmons  
404 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32309

Dear Chairman Simmons,

I would like to request that SB 256 Child Protection Teams be heard in your next Judiciary Committee meeting.

This bill revises the definition of the term "officer, employee, or agent," as it applies to immunity from personal liability in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope or her or his employment or function, unless they acted in bad faith. This includes any member of a child protection team, when carrying out her or his duties as a team member.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley  
Senate District 12

DKB/dd

cc: Tom Cibula, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012  
Email: [baxley.dennis@flsenate.gov](mailto:baxley.dennis@flsenate.gov)

Bill Galvano  
President of the Senate

David Simmons  
President Pro Tempore

# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee Judge:

Started: 2/19/2019 12:31:52 PM

Ends: 2/19/2019 1:59:19 PM Length: 01:27:28

**12:31:51 PM**

**12:31:54 PM** Meeting called to order by Chair Simmons

**12:31:56 PM** Roll call by Administrative Assistant Joyce Butler

**12:32:14 PM** Quorum present

**12:32:23 PM** Comments by Chair

**12:36:00 PM** Motion for time certain 1:35 by Senator Gibson

**12:37:01 PM** Time certain adopted

**12:38:59 PM** Vice Chair Rodriguez requests to turn to Sheriff Gualtieri for questions

**12:40:08 PM** Question from Senator Gibson

**12:41:39 PM** SB 168 presented by Senator Gruters

**12:41:54 PM** Amendment Barcode No. 384318 presented

**12:42:18 PM** Question by Vice Chair Rodriguez

**12:42:46 PM** Response by Senator Gruters

**12:43:13 PM** Question by Senator Rodriguez

**12:43:20 PM** Response by Senator Gruters

**12:44:54 PM** Question by Vice Chair Rodriguez

**12:45:15 PM** Vice Chair Rodriguez speaking

**12:45:27 PM** Response by Senator Gruters

**12:45:53 PM** Question by Vice Chair Rodriguez

**12:46:47 PM** Response by Senator Gruters

**12:47:35 PM** Question by Vice Chair Rodriguez

**12:47:44 PM** Response by Senator Gruters

**12:48:25 PM** Question by Vice Chair Rodriguez

**12:48:53 PM** Response by Senator Gruters

**12:49:22 PM** Question by Vice Chair Rodriguez

**12:49:49 PM** Chair Simmons asks Sheriff Gualtieri to explain SB 168 language

**12:51:25 PM** Explanation by Sheriff Gualtieri

**12:51:45 PM** Question by Vice Chair Rodriguez

**12:52:06 PM** Response by Senator Gruters

**12:55:19 PM** Question by Vice Chair Rodriguez

**12:55:50 PM** Response by Senator Gruters

**12:56:09 PM** Question by Vice Chair Rodriguez

**12:56:23 PM** Response by Senator Gruters

**12:57:20 PM** Response by Sheriff Gualtieri

**12:59:10 PM** Question by Senator Hutson

**12:59:23 PM** Response by Senator Gruters

**12:59:48 PM** Question by Senator Hutson

**1:00:20 PM** Response by Senator Gruters

**1:02:36 PM** Speaker David Caulkett, Vice President, Floridians for Immigration Enforcement

**1:04:35 PM** Speaker Isabel Sousa, Membership Director Florida Immigration Coalition

**1:06:29 PM** Speaker Kara Gross, Legislative Director, American Civil Liberties Union of Florida

**1:07:45 PM** Speaker Scott McCoy, Senior Policy Counsel, SPLC Action



1:09:11 PM Speaker Ingrid Delgado, Associate for Social Concerns & Respect Life, Florida Conference of Catholic Bishops

1:11:09 PM Speaker Thomas Kennedy, Political Director, Florida Immigration Coalition

1:12:27 PM Speaker Ted Hutchinson, State Director

1:13:21 PM Speaker Mateo Duarte

1:15:30 PM Speaker Amy Mayles

1:16:12 PM Speaker Lane Watkins

1:19:19 PM Amendment Barcode No. 478986 presented by Senator Rodriguez

1:21:40 PM Speaker Nanci Palacios, Community Organizer, Faith in Florida

1:23:26 PM Question by Senator Stargel

1:23:39 PM Response by Senator Gruters

1:23:55 PM Senator Rodriguez closes on Amendment

1:24:22 PM Amendment Barcode No. 478986 fails

1:24:38 PM Amendment Barcode No. 616122 presented by Senator Rodriguez

1:26:23 PM Senator Rodriguez speaking

1:27:02 PM Senator Rodriguez closes on Amendment

1:27:46 PM Amendment Barcode No. 616122 fails

1:28:35 PM Amendment Barcode No. 106948 presented by Senator Rodriguez

1:29:37 PM Vice Chair Rodriguez waives closure

1:29:45 PM Amendment Barcode No. 106948 fails

1:30:00 PM Amendment Barcode No. 413924 presented by Senator Rodriguez

1:31:00 PM Vice Chair Rodriguez waives closure

1:31:10 PM Amendment Barcode No. 413924 fails

1:31:25 PM Debate by Senator Rodriguez

1:32:20 PM Senator Gruters waives closure on Amendment

1:33:23 PM Amendment Barcode No. 384318 adopted

1:33:44 PM Senator Gruters waives closure

1:34:01 PM Roll call by Administrative Assistant Joyce Butler

1:34:15 PM CS/SB 168 reported favorably

1:35:12 PM SB 262 presented by Senator Albritton

1:35:54 PM Senator Albritton presents Amendment Barcode No. 406838

1:36:35 PM Question by Senator Rodriguez

1:37:49 PM Response by Senator Albritton

1:40:44 PM Question by Senator Gibson

1:40:59 PM Response by Senator Albritton

1:43:31 PM Andrew Kalel, Legislative Affairs Director, Office of Criminal Conflict & Civil Regional Counsel, First Region waives in support

1:44:07 PM Senator Albritton waives closure

1:44:21 PM Amendment Barcode No. 406838 adopted

1:44:51 PM Victoria Zepp, Chief Policy & Research Officer, Florida Coalition for Children waives in support

1:45:09 PM Speaker Trish Neely waives in support

1:45:19 PM Speaker Alan Abramowitz, Executive Director, Statewide Guardian Ad Litem Program waives in support

1:45:40 PM Speaker Mike Carroll, Executive Vice President, Lutheran Services Florida waives in support

1:45:51 PM Speaker Greg Pound waives in opposition

1:46:27 PM Debate by Senator Baxley

1:46:43 PM Senator Albritton waives closure

1:46:47 PM Roll call by Administrative Assistant Joyce Butler

1:46:51 PM CS/SB 262 reported favorably

1:47:29 PM SB 598 presented by Senator Albritton

**1:48:46 PM** Amendment Barcode No. 358568 presented by Senator Albritton  
**1:50:41 PM** Question by Senator Gibson  
**1:50:48 PM** Response by Senator Albritton  
**1:51:44 PM** Question by Senator Rodriguez  
**1:52:37 PM** Response by Senator Albritton  
**1:54:15 PM** Debate by Senator Baxley  
**1:54:46 PM** Senator Albritton closes  
**1:54:50 PM** Amendment Barcode No. 358568 adopted  
**1:55:04 PM** Question by Senator Gibson  
**1:55:30 PM** Response by Senator Albritton  
**1:57:06 PM** Debate by Senator Rodriguez  
**1:57:44 PM** Speaker cards will be recorded in record  
**1:58:15 PM** Roll call by Administrative Assistant Joyce Butler  
**1:58:32 PM** CS/SB 598 reported favorably  
**1:58:52 PM** Meeting adjourned without objection