

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Joseph offered the following:

Amendment to Amendment (159253) (with title amendment)

Remove lines 54-393 and insert:

charged with enforcement of state 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 departments,
county correctional agencies, and the Department of Corrections.

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

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14 agency from communicating or cooperating with a federal
15 immigration agency with respect to federal immigration
16 enforcement, including, but not limited to, limiting a law
17 enforcement agency in, or prohibiting such agency from:

18 (a) Complying with an immigration detainer;

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

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

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

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

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

34 (8) "State entity" means the state or any office, board,
35 bureau, commission, department, branch, division, or institution
36 thereof, including institutions within the State University
37 System and the Florida College System.

38 PART II

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DUTIES

39
40 908.201 Sanctuary policies prohibited.—A state entity, law
41 enforcement agency may not adopt or have in effect a sanctuary
42 policy.

43 908.202 Cooperation with federal immigration authorities.—

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

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

56 (a) Sending the information to or requesting, receiving,
57 or reviewing the information from a federal immigration agency
58 for purposes of this chapter.

59 (b) Recording and maintaining the information for purposes
60 of this chapter.

61 (c) Exchanging the information with a federal immigration
62 agency or another state entity or law enforcement agency for
63 purposes of this chapter.

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64 (d) Using the information to comply with an immigration
65 detainer.

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

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

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

72 2. The judge:

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

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

77 (b) In an applicable criminal case, when the judge
78 sentences a defendant who is the subject of an immigration
79 detainer to confinement, the judge shall issue an order
80 requiring the secure correctional facility in which the
81 defendant is to be confined to reduce the defendant's sentence
82 by a period of not more than 12 days on the facility's
83 determination that the reduction in sentence will facilitate the
84 seamless transfer of the defendant into federal custody. For
85 purposes of this paragraph, the term "secure correctional
86 facility" means a state correctional institution as defined in
87 s. 944.02 or a county detention facility or a municipal
88 detention facility as defined in s. 951.23.

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

95 (4) When a county correctional facility or the Department
96 of Corrections receives verification from a federal immigration
97 agency that a person subject to an immigration detainer is in
98 the law enforcement agency's custody, the agency may securely
99 transport the person to a federal facility in this state or to
100 another point of transfer to federal custody outside the
101 jurisdiction of the law enforcement agency. The law enforcement
102 agency may transfer a person who is subject to an immigration
103 detainer and is confined in a secure correctional facility to
104 the custody of a federal immigration agency not earlier than 12
105 days before his or her release date. A law enforcement agency
106 shall obtain judicial authorization before securely transporting
107 an alien to a point of transfer outside of this state.

108 (5) This section does not require a state entity or law
109 enforcement agency to provide a federal immigration agency with
110 information related to a victim of or a witness to a criminal
111 offense if the victim or witness timely and in good faith
112 responds to the entity's or agency's request for information and
113 cooperation in the investigation or prosecution of the offense.

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

122 908.203 Duties related to immigration detainers.-

123 (1) A law enforcement agency that has custody of a person
124 subject to an immigration detainer issued by a federal
125 immigration agency shall:

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

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

131 (c) Upon determining that the immigration detainer is in
132 accordance with s. 908.102(2), comply with the requests made in
133 the immigration detainer.

134 (2) A law enforcement agency is not required to perform a
135 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
136 respect to a person who is transferred to the custody of the
137 agency by another law enforcement agency if the transferring
138 agency performed that duty before the transfer.

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

143 908.204 Reimbursement of costs.—Each county correctional
144 facility shall enter into an agreement or agreements with a
145 federal immigration agency for temporarily housing persons who
146 are the subject of immigration detainers and for the payment of
147 the costs of housing and detaining those persons. A compliant
148 agreement may include any contract between a correctional
149 facility and a federal immigration agency for housing or
150 detaining persons subject to immigration detainers, such as
151 basic ordering agreements in effect on or after July 1, 2019,
152 agreements authorized by s. 287 of the Immigration and
153 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and
154 other similar agreements authorized by federal law.

155 PART III

156 ENFORCEMENT

157 908.301 Complaints.—The Attorney General shall prescribe
158 and provide through the Department of Legal Affairs' website the
159 format for a person to submit a complaint alleging a violation
160 of this chapter. This section does not prohibit the filing of an
161 anonymous complaint or a complaint not submitted in the
162 prescribed format. Any person has standing to submit a complaint
163 under this chapter.

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164 908.302 Enforcement; penalties.-

165 (1) The state attorney for the county in which a state
166 entity is headquartered or law enforcement agency is located has
167 primary responsibility and authority for investigating credible
168 complaints of a violation of this chapter. The results of an
169 investigation by a state attorney shall be provided to the
170 Attorney General in a timely manner.

171 (2) (a) A state entity or law enforcement agency for which
172 the state attorney has received a complaint shall comply with a
173 document request from the state attorney related to the
174 complaint.

175 (b) If the state attorney determines that a complaint
176 filed against a state entity or law enforcement agency is valid,
177 the state attorney shall, not later than the 10th day after the
178 date of the determination, provide written notification to the
179 entity that:

180 1. The complaint has been filed.

181 2. The state attorney has determined that the complaint is
182 valid.

183 3. Any executive or administrative state, county, or
184 municipal officer who violates his duties under this chapter may
185 be subject to actions taken by the Governor in exercise of his
186 authority under the State Constitution and Florida law. As
187 provided in s. 1(b), Art. IV, of the State Constitution, the
188 Governor may, in his discretion, initiate judicial proceedings

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189 in the name of the state against such officers to enforce
190 compliance with any duty under this chapter or restrain any
191 unauthorized act contrary to this chapter.

192 4. In addition, the state attorney or Attorney General may
193 file suit against any aw enforcement agency for declaratory and
194 injunctive relief caused by a violation of this chapter.

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

198 1. The entity's written policies and procedures with
199 respect to federal immigration agency enforcement actions,
200 including the entity's policies and procedures with respect to
201 immigration detainers.

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

205 3. Each response sent by the entity for an immigration
206 detainer described by subparagraph 2.

207 (3) As provided in s. 1(b), Art. IV, of the State
208 Constitution, the Governor may, in his discretion, initiate
209 judicial proceedings in the name of the state against such
210 officers to enforce compliance with any duty under this chapter
211 or restrain any unauthorized act contrary to this chapter. The
212 Attorney General, the state attorney who conducted the
213 investigation, or a state attorney ordered by the Governor

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214 pursuant to s. 27.14 may institute proceedings in circuit court
215 to enjoin a state entity or law enforcement agency found to be in
216 violation of this chapter. Venue of an action brought by the
217 Attorney General may be in Leon County. The court shall expedite
218 an action under this section, including setting a hearing at the
219 earliest practicable date.

220 (4) Upon adjudication by the court or as provided in a
221 consent decree declaring that an officer, state entity or law
222 enforcement agency has violated this chapter, the court shall
223 enjoin the unlawful sanctuary policy and order that such entity
224 or agency pay a civil penalty to the state of at least \$1,000
225 but not more than \$5,000 for each day that the sanctuary policy
226 was in effect commencing on October 1, 2019, or the date the
227 sanctuary policy was first enacted, whichever is later, until
228 the date the injunction was granted. The court shall have
229 continuing jurisdiction over the parties and subject matter and
230 may enforce its orders with imposition of additional civil
231 penalties as provided for in this section and contempt
232 proceedings as provided by law.

233 (5) An order approving a consent decree or granting an
234 injunction or civil penalties pursuant to subsection (4) must
235 include written findings of fact that describe with specificity
236 the existence and nature of the sanctuary policy in violation of
237 s. 908.201 and that identify each sanctuary policymaker who
238 voted for, allowed to be implemented, or voted against repeal or

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239 prohibition of the sanctuary policy, or who willfully engaged in
240 a pattern of noncooperation with a federal immigration agency.
241 The court shall provide a copy of the consent decree or order
242 granting an injunction or civil penalties that contains the
243 written findings required by this subsection to the Governor
244 within 30 days after the date of rendition. Any executive or
245 administrative state, county, or municipal officer who violates
246 his duties under this chapter may be subject to actions taken by
247 the Governor in exercise of his authority under the State
248 Constitution and Florida law.

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

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

258 908.303 Civil cause of action for personal injury or
259 wrongful death attributed to a sanctuary policy; trial by jury;
260 required written findings.-

261 (1) A person injured in this state by the tortious acts or
262 omissions of an alien unlawfully present in the United States,
263 or the personal representative of a person killed in this state

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264 by the tortious acts or omissions of an alien unlawfully present
265 in the United States, has a cause of action for damages against
266 a state entity or law enforcement agency in violation of ss.
267 908.201 and 908.202 upon proof by the greater weight of the
268 evidence of:

269 (a) The existence of a sanctuary policy in violation of s.
270 908.201; and

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

274 2. A failure to comply with a provision of s.
275 908.203(1)(c) resulting in such alien's having access to the
276 person injured or killed when the tortious acts or omissions
277 occurred.

278 (2) A cause of action brought pursuant to subsection (1)
279 may not be brought against a person who holds public office or
280 who has official duties as a representative, agent, or employee
281 of a state entit or law enforcement agency, including a
282 sanctuary policymaker.

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

285 (4) A final judgment entered in favor of a plaintiff in a
286 cause of action brought pursuant to this section must include
287 written findings of fact that describe with specificity the
288 existence and nature of the sanctuary policy in violation of s.

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289 908.201 and that identify each sanctuary policymaker who voted
290 for, allowed to be implemented, or voted against repeal or
291 prohibition of the sanctuary policy, or who willfully engaged in
292 a pattern of noncooperation with a federal immigration agency.
293 The court shall provide a copy of the final judgment containing
294 the written findings required by this subsection to the Governor
295 within 30 days after the date of rendition. A sanctuary
296 policymaker identified in a final judgment may be suspended or
297 removed from office pursuant to general law and s. 7, Art. IV of
298 the State Constitution.

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

302 908.304 Ineligibility for state grant funding.-

303 (1) Notwithstanding any other provision of law, a state
304 entity or law enforcement agency shall be ineligible to receive
305 funding from non-federal grant programs administered by state
306 agencies that receive funding from the General Appropriations
307 Act for a period of 5 years from the date of adjudication that
308 such state entity or law enforcement agency had in effect a
309 sanctuary policy in violation of this chapter.

310 (2) The Chief Financial Officer shall be notified by the
311 state attorney of an adjudicated violation of this chapter by a
312 state entity or law enforcement agency and be provided with a
313 copy of the final court injunction, order, or judgment. Upon

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314 receiving such notice, the Chief Financial Officer shall timely
 315 inform all state agencies that administer non-federal grant
 316 funding of the adjudicated violation by the state entity or law
 317 enforcement agency and direct such agencies to cancel all
 318 pending grant applications and enforce the ineligibility of such
 319 entity for the prescribed period.

320 (3) This subsection does not apply to:

321 (a) Funding that is received as a result of an
 322 appropriation to a specifically named state entit or law
 323 enforcement agency in the General Appropriations Act or other
 324 law.

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

328
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330 **T I T L E A M E N D M E N T**

331 Remove line 427 and insert:

332 state entitiesand law

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