Representative Smith, C. offered the following:

Amendment to Amendment (159253) (with title amendment)

Remove lines 63-401 and insert:

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

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

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

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

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

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

PART II
DUTIES

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

908.202 Cooperation with federal immigration authorities.—

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

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

(a) Sending the information to or requesting, receiving,
or reviewing the information from a federal immigration agency
for purposes of this chapter.
(b) Recording and maintaining the information for purposes
of this chapter.
(c) Exchanging the information with a federal immigration
agency or another local governmental entity, or law enforcement
agency for purposes of this chapter.
(d) Using the information to comply with an immigration
detainer.
(e) Using the information to confirm the identity of a
person who is detained by a law enforcement agency.

(3)(a) For purposes of this subsection the term
"applicable criminal case" means a criminal case in which:
1. The judgment requires the defendant to be confined in a
secure correctional facility; and
2. The judge:
   a. Indicates in the record under s. 908.203 that the defendant is subject to an immigration detainer; or
   b. Otherwise indicates in the record that the defendant is subject to a transfer into federal custody.

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

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

(4) 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 the law enforcement agency's custody, the agency may securely transport the person to a federal facility in this state or to another point of transfer to federal custody outside the jurisdiction of the law enforcement agency. The law enforcement agency may transfer a person who is subject to an immigration detainer and is confined in a secure correctional facility to the custody of a federal immigration agency not earlier than 12 days before his or her release date. A law enforcement agency shall obtain judicial authorization before securely transporting an alien to a point of transfer outside of this state.

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

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

908.203 Duties related to immigration detainers.—
(1) A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency shall:
   (a) Provide to the judge authorized to grant or deny the person's release on bail under chapter 903 notice that the person is subject to an immigration detainer.
   (b) Record in the person's case file that the person is subject to an immigration detainer.
   (c) Upon determining that the immigration detainer is in accordance with s. 908.102(2), comply with the requests made in the immigration detainer.
(2) A law enforcement agency is not required to perform a duty imposed by paragraph (1)(a) or paragraph (1)(b) with respect to a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed that duty before the transfer.
(3) A judge who receives notice that a person is subject to an immigration detainer shall cause the fact to be recorded in the court record, regardless of whether the notice is received before or after a judgment in the case.

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

PART III
ENFORCEMENT

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

908.302 Enforcement; penalties.—
(1) The state attorney for the county in which a local governmental entity or law enforcement agency is located has primary responsibility and authority for investigating credible complaints of a violation of this chapter. The results of an
investigation by a state attorney shall be provided to the Attorney General in a timely manner.

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

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

1. The complaint has been filed.
2. The state attorney has determined that the complaint is valid.
3. Any executive or administrative state, county, or municipal officer who violates his duties under this chapter may be subject to actions taken by the Governor in exercise of his authority under the State Constitution and Florida law. As provided in s. 1(b), Art. IV, of the State Constitution, the Governor may, in his discretion, initiate judicial proceedings in the name of the state against such officers to enforce compliance with any duty under this chapter or restrain any unauthorized act contrary to this chapter.

4. In addition, the state attorney or Attorney General may file suit against any local government entity or law enforcement
agency for declaratory and injunctive relief caused by a violation of this chapter.

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

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

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

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

(3) As provided in s. 1(b), Art. IV, of the State Constitution, the Governor may, in his discretion, initiate judicial proceedings in the name of the state against such officers to enforce compliance with any duty under this chapter or restrain any unauthorized act contrary to this chapter. The Attorney General, the state attorney who conducted the investigation, or a state attorney ordered by the Governor pursuant to s. 27.14 may institute proceedings in circuit court to enjoin a local governmental entity, or law enforcement agency found to be in violation of this chapter. Venue of an action

Approved For Filing: 4/30/2019 9:05:59 AM

Page 9 of 15
brought by the Attorney General may be in Leon County. The court
shall expedite an action under this section, including setting a
hearing at the earliest practicable date.

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

(5) An order approving a consent decree or granting an
injunction or civil penalties pursuant to subsection (4) must
include written findings of fact that describe with specificity
the existence and nature of the sanctuary policy in violation of
s. 908.201 and that identify each sanctuary policymaker who
voted for, allowed to be implemented, or voted against repeal or
prohibition of the sanctuary policy, or who willfully engaged in
a pattern of noncooperation with a federal immigration agency.
The court shall provide a copy of the consent decree or order

218917
granting an injunction or civil penalties that contains the written findings required by this subsection to the Governor within 30 days after the date of rendition. Any executive or administrative state, county, or municipal officer who violates his duties under this chapter may be subject to actions taken by the Governor in exercise of his authority under the State Constitution and Florida law.

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

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

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

(1) A person injured in this state by the tortious acts or omissions of an alien unlawfully present in the United States, or the personal representative of a person killed in this state by the tortious acts or omissions of an alien unlawfully present in the United States, has a cause of action for damages against a local governmental entity or law enforcement agency in

Approved For Filing: 4/30/2019 9:05:59 AM
Page 11 of 15
violation of ss. 908.201 and 908.202 upon proof by the greater
weight of the evidence of:

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

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

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

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

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

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

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

908.304 Ineligibility for state grant funding.—

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

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

(3) This subsection does not apply to:

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

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

PART IV

MISCELLANEOUS

908.401 Education records.—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.

908.402 Discrimination prohibited.—A local
T I T L E  A M E N D M E N T

Remove line 427 and insert:

local governmental entities, and law