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LEGISLATIVE ACTION

Senate

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House

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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



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;



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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



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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 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



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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



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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.



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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:



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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;



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providing effective dates.