

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Smith, C. offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 91-272 and insert:

5 procedure, or custom adopted or allowed by a local governmental
6 entity which prohibits or impedes a law enforcement agency from
7 complying with 8 U.S.C. s. 1373 or which prohibits or impedes a
8 law enforcement agency from communicating or cooperating with a
9 federal immigration agency so as to limit such law enforcement
10 agency in, or prohibit the agency from:

11 (a) Complying with an immigration detainer;

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

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

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

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

22 908.103 Sanctuary policies prohibited.—A law enforcement
23 agency or local governmental entity may not adopt or have in
24 effect a sanctuary policy.

25 908.104 Cooperation with federal immigration authorities.—

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

32 (2) Except as otherwise expressly prohibited by federal
33 law, a local governmental entity or law enforcement agency, or
34 an employee, an agent, or a representative of the entity or
35 agency, may not prohibit or in any way restrict a law

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

38 (a) Sending the information to or requesting, receiving,
39 or reviewing the information from a federal immigration agency
40 for purposes of this chapter.

41 (b) Recording and maintaining the information for purposes
42 of this chapter.

43 (c) Exchanging the information with a federal immigration
44 agency or another local governmental entity or law enforcement
45 agency for purposes of this chapter.

46 (d) Using the information to comply with an immigration
47 detainer.

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

50 (3) (a) For purposes of this subsection, the term
51 "applicable criminal case" means a criminal case in which:

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

54 2. The judge:

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

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

59 (b) In an applicable criminal case, when the judge
60 sentences a defendant who is the subject of an immigration

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61 detainer to confinement, the judge shall issue an order
62 requiring the secure correctional facility in which the
63 defendant is to be confined to reduce the defendant's sentence
64 by a period of not more than 12 days on the facility's
65 determination that the reduction in sentence will facilitate the
66 seamless transfer of the defendant into federal custody. For
67 purposes of this paragraph, the term "secure correctional
68 facility" means a state correctional institution as defined in
69 s. 944.02 or a county detention facility or a municipal
70 detention facility as defined in s. 951.23.

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

77 (4) When a county correctional facility or the Department
78 of Corrections receives verification from a federal immigration
79 agency that a person subject to an immigration detainer is in
80 the law enforcement agency's custody, the agency may securely
81 transport the person to a federal facility in this state or to
82 another point of transfer to federal custody outside the
83 jurisdiction of the law enforcement agency. The law enforcement
84 agency may transfer a person who is subject to an immigration
85 detainer and is confined in a secure correctional facility to

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86 the custody of a federal immigration agency not earlier than 12
87 days before his or her release date. A law enforcement agency
88 shall obtain judicial authorization before securely transporting
89 an alien to a point of transfer outside of this state.

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

97 (6) A local governmental entity or law enforcement agency
98 that, pursuant to subsection (5), withholds information
99 regarding the immigration information of a victim of or witness
100 to a criminal offense shall document the victim's or witness's
101 cooperation in the entity's or agency's investigative records
102 related to the offense and shall retain the records for at least
103 10 years for the purpose of audit, verification, or inspection
104 by the Auditor General.

105 (7) This section does not authorize a law enforcement
106 agency to detain an alien unlawfully present in the United
107 States pursuant to an immigration detainer solely because the
108 alien witnessed or reported a crime or was a victim of a
109 criminal offense.

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110 (8) This section does not apply to any alien unlawfully
111 present in the United States if he or she is or has been a
112 necessary witness or victim of a crime of domestic violence,
113 rape, sexual exploitation, sexual assault, murder, manslaughter,
114 assault, battery, human trafficking, kidnapping, false
115 imprisonment, involuntary servitude, fraud in foreign labor
116 contracting, blackmail, extortion, or witness tampering.

117 908.105 Duties related to immigration detainers.-

118 (1) A law enforcement agency that has custody of a person
119 subject to an immigration detainer issued by a federal
120 immigration agency shall:

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

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

126 (c) Upon determining that the immigration detainer is in
127 accordance with s. 908.102(2), comply with the requests made in
128 the immigration detainer.

129 (2) A law enforcement agency is not required to perform a
130 duty imposed by paragraph (1)(a) or paragraph (1)(b) with
131 respect to a person who is transferred to the custody of the
132 agency by another law enforcement agency if the transferring
133 agency performed that duty before the transfer.

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

138 908.106 Reimbursement of costs.—Each county correctional
139 facility shall enter into an agreement or agreements with a
140 federal immigration agency for temporarily housing persons who
141 are the subject of immigration detainers and for the payment of
142 the costs of housing and detaining those persons. A compliant
143 agreement may include any contract between a correctional
144 facility and a federal immigration agency for housing or
145 detaining persons subject to immigration detainers, such as
146 basic ordering agreements in effect on or after July 1, 2019,
147 agreements authorized by section 287 of the Immigration and
148 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and
149 other similar agreements authorized by federal law.

150 908.107 Enforcement.—

151 (1) Any executive or administrative state, county, or
152 municipal officer who violates his or her duties under this
153 chapter may be subject to action by the Governor in the exercise
154 of his or her authority under the State Constitution and state
155 law. Pursuant to s. 1(b), Art. IV of the State Constitution, the
156 Governor may initiate judicial proceedings in the name of the
157 state against such officers to enforce compliance with any duty

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158 | under this chapter or restrain any unauthorized act contrary to
159 | this chapter.

160 | (2) In addition, the Attorney General may file suit
161 | against a local governmental entity or local law enforcement
162 | agency in a court of competent jurisdiction for declaratory or
163 | injunctive relief for a violation of this chapter.

164 | (3) If a local governmental entity or local law
165 | enforcement agency violates this chapter, the court must enjoin
166 | the unlawful sanctuary policy. The court has continuing
167 | jurisdiction over the parties and subject matter and may enforce
168 | its orders with the initiation of contempt proceedings as
169 | provided by law.

170 | (4) An order approving a consent decree or granting an
171 | injunction must include written findings of fact that describe
172 | with specificity the existence and nature of the sanctuary
173 | policy that violates this chapter.

174 | 908.108 Education records.—This chapter does not apply to
175 | the release of information contained in education records of an
176 | educational agency or institution, except in conformity with the
177 | Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.
178 | 1232g.

179 | 908.109 Discrimination prohibited.—A local governmental
180 | entity or a law enforcement agency, or a person

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

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Remove lines 6-7 and insert:
prohibiting sanctuary policies; requiring local
governmental entities and law

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