By the Committee on Judiciary; and Senators Gruters and Bean

A bill to be entitled
An act relating to federal immigration enforcement;
creating chapter 908, F.S., relating to federal
immigration enforcement; providing legislative
findings and intent; providing definitions;
prohibiting sanctuary policies; requiring state
entities, local governmental entities, and law
enforcement agencies to use best efforts to support
the enforcement of federal immigration law;
prohibiting restrictions by the entities and agencies
on taking certain actions with respect to information
regarding a person’s immigration status; providing
requirements concerning certain criminal defendants
subject to immigration detainers or otherwise subject
to transfer to federal custody; authorizing a law
enforcement agency to transport an alien unlawfully
present in the United States under certain
circumstances; providing an exception to reporting
requirements for crime victims or witnesses; requiring
recordkeeping relating to crime victim and witness
cooperation in certain investigations; specifying
duties concerning immigration detainers; requiring
county correctional facilities to enter agreements for
payments for complying with immigration detainers;
providing for injunctive relief; providing for
applicability to certain education records;
prohibiting discrimination on specified grounds;
providing for implementation; requiring repeal of
existing sanctuary policies within a specified period;
Be It Enacted by the Legislature of the State of Florida:

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:

(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.

(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 along with a warrant described in paragraph (c). For purposes of this subsection, an immigration detainer is deemed facially sufficient if:

(a) The federal immigration agency’s official form is
(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; and

(c) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal 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 departments, county correctional agencies, and the Department of Corrections. The term includes an official or employee of such an agency.

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

(6) “Sanctuary policy” means a law, policy, practice, procedure, or custom adopted or permitted by a state entity, 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 section 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) “State entity” means the state or any office, board, bureau, commission, department, branch, division, or institution thereof, including institutions within the State University System and the Florida College System. The term includes a person holding public office or having official duties as a representative, agent, or employee of the entity.

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

908.104 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 state entity, local governmental entity, or law enforcement 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 state entity, 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. 908.105 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 7 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. However, the law enforcement agency may transport a person who is subject to an immigration detainer and is confined in a secure correctional facility only upon authorization by a court order unless the transportation will occur within the 7 day period under subsection (3). 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 state entity, 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 state entity, 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.
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.

908.106 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 section 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357, or successor agreements and other similar agreements authorized by federal law.

908.107 Enforcement.—

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

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

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

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