

**By** the Committees on Infrastructure and Security; and Judiciary;  
and Senators Gruters, Bean, and Mayfield

596-02970-19

2019168c2

1                                   A bill to be entitled  
2       An act relating to federal immigration enforcement;  
3       creating chapter 908, F.S., relating to federal  
4       immigration enforcement; providing legislative  
5       findings and intent; providing definitions;  
6       prohibiting sanctuary policies; requiring state  
7       entities, local governmental entities, and law  
8       enforcement agencies to use best efforts to support  
9       the enforcement of federal immigration law;  
10      prohibiting restrictions by the entities and agencies  
11      on taking certain actions with respect to information  
12      regarding a person's immigration status; providing  
13      requirements concerning certain criminal defendants  
14      subject to immigration detainers or otherwise subject  
15      to transfer to federal custody; authorizing a law  
16      enforcement agency to transport an alien unlawfully  
17      present in the United States under certain  
18      circumstances; providing an exception to reporting  
19      requirements for crime victims or witnesses; requiring  
20      recordkeeping relating to crime victim and witness  
21      cooperation in certain investigations; specifying  
22      duties concerning immigration detainers; requiring  
23      county correctional facilities to enter agreements for  
24      payments for complying with immigration detainers;  
25      providing for injunctive relief; providing for  
26      applicability to certain education records;  
27      prohibiting discrimination on specified grounds;  
28      providing for implementation; requiring repeal of  
29      existing sanctuary policies within a specified period;

596-02970-19

2019168c2

30 providing effective dates.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Chapter 908, Florida Statutes, consisting of  
35 sections 908.101-908.109, is created to read:

36 CHAPTER 908

37 FEDERAL IMMIGRATION ENFORCEMENT

38 908.101 Legislative findings and intent.—The Legislature  
39 finds that it is an important state interest to cooperate and  
40 assist the federal government in the enforcement of federal  
41 immigration laws within this state.

42 908.102 Definitions.—As used in this chapter, the term:

43 (1) "Federal immigration agency" means the United States  
44 Department of Justice and the United States Department of  
45 Homeland Security, a division within such an agency, including  
46 United States Immigration and Customs Enforcement and United  
47 States Customs and Border Protection, any successor agency, and  
48 any other federal agency charged with the enforcement of  
49 immigration law. The term includes an official or employee of  
50 such an agency.

51 (2) "Immigration detainer" means a facially sufficient  
52 written or electronic request issued by a federal immigration  
53 agency using that agency's official form to request that another  
54 law enforcement agency detain a person based on probable cause  
55 to believe that the person to be detained is a removable alien  
56 under federal immigration law, including detainers issued  
57 pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant  
58 described in paragraph (c). For purposes of this subsection, an

596-02970-19

2019168c2

59 immigration detainer is deemed facially sufficient if:

60 (a) The federal immigration agency's official form is  
61 complete and indicates on its face that the federal immigration  
62 official has probable cause to believe that the person to be  
63 detained is a removable alien under federal immigration law; or

64 (b) The federal immigration agency's official form is  
65 incomplete and fails to indicate on its face that the federal  
66 immigration official has probable cause to believe that the  
67 person to be detained is a removable alien under federal  
68 immigration law, but is supported by an affidavit, order, or  
69 other official documentation that indicates that the federal  
70 immigration agency has probable cause to believe that the person  
71 to be detained is a removable alien under federal immigration  
72 law; and

73 (c) The federal immigration agency supplies with its  
74 detention request a Form I-200 Warrant for Arrest of Alien or a  
75 Form I-205 Warrant of Removal/Deportation or a successor warrant  
76 or other warrant authorized by federal law.

77 (3) "Inmate" means a person in the custody of a law  
78 enforcement agency.

79 (4) "Law enforcement agency" means an agency in this state  
80 charged with enforcement of state, county, municipal, or federal  
81 laws or with managing custody of detained persons in the state  
82 and includes municipal police departments, sheriff's offices,  
83 state police departments, state university and college police  
84 departments, county correctional agencies, and the Department of  
85 Corrections. The term includes an official or employee of such  
86 an agency.

87 (5) "Local governmental entity" means any county,

596-02970-19

2019168c2

88 municipality, or other political subdivision of this state. The  
89 term includes a person holding public office or having official  
90 duties as a representative, agent, or employee of the entity.

91 (6) "Sanctuary policy" means a law, policy, practice,  
92 procedure, or custom adopted or permitted by a state entity,  
93 local governmental entity, or law enforcement agency which  
94 contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly  
95 prohibits or impedes a law enforcement agency from communicating  
96 or cooperating with a federal immigration agency with respect to  
97 federal immigration enforcement, including, but not limited to,  
98 limiting a law enforcement agency in, or prohibiting such agency  
99 from:

100 (a) Complying with an immigration detainer;

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

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

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

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

111 (7) "State entity" means the state or any office, board,  
112 bureau, commission, department, branch, division, or institution  
113 thereof, including institutions within the State University  
114 System and the Florida College System. The term includes a  
115 person holding public office or having official duties as a  
116 representative, agent, or employee of the entity.

596-02970-19

2019168c2

117 908.103 Sanctuary policies prohibited.—A state entity, law  
118 enforcement agency, or local governmental entity may not adopt  
119 or have in effect a sanctuary policy.

120 908.104 Cooperation with federal immigration authorities.—

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

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

132 (a) Sending the information to or requesting, receiving, or  
133 reviewing the information from a federal immigration agency for  
134 purposes of this chapter.

135 (b) Recording and maintaining the information for purposes  
136 of this chapter.

137 (c) Exchanging the information with a federal immigration  
138 agency or another state entity, local governmental entity, or  
139 law enforcement agency for purposes of this chapter.

140 (d) Using the information to comply with an immigration  
141 detainer.

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

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

596-02970-19

2019168c2

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

148 2. The judge:

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

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

153 (b) In an applicable criminal case, when the judge  
154 sentences a defendant who is the subject of an immigration  
155 detainer to confinement, the judge shall issue an order  
156 requiring the secure correctional facility in which the  
157 defendant is to be confined to reduce the defendant's sentence  
158 by a period of not more than 7 days on the facility's  
159 determination that the reduction in sentence will facilitate the  
160 seamless transfer of the defendant into federal custody. For  
161 purposes of this paragraph, the term "secure correctional  
162 facility" means a state correctional institution as defined in  
163 s. 944.02 or a county detention facility or a municipal  
164 detention facility as defined in s. 951.23.

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

171 (4) When a county correctional facility or the Department  
172 of Corrections receives verification from a federal immigration  
173 agency that a person subject to an immigration detainer is in  
174 the law enforcement agency's custody, the agency may securely

596-02970-19

2019168c2

175 transport the person to a federal facility in this state or to  
176 another point of transfer to federal custody outside the  
177 jurisdiction of the law enforcement agency. However, the law  
178 enforcement agency may transport a person who is subject to an  
179 immigration detainer and is confined in a secure correctional  
180 facility only upon authorization by a court order unless the  
181 transportation will occur within the 7 day period under  
182 subsection (3). A law enforcement agency shall obtain judicial  
183 authorization before securely transporting an alien to a point  
184 of transfer outside of this state.

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

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

200 908.105 Duties related to immigration detainers.-

201 (1) A law enforcement agency that has custody of a person  
202 subject to an immigration detainer issued by a federal  
203 immigration agency shall:

596-02970-19

2019168c2

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

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

209 (c) Upon determining that the immigration detainer is in  
210 accordance with s. 908.102(2), comply with the requests made in  
211 the immigration detainer.

212 (2) A law enforcement agency is not required to perform a  
213 duty imposed by paragraph (1) (a) or paragraph (1) (b) with  
214 respect to a person who is transferred to the custody of the  
215 agency by another law enforcement agency if the transferring  
216 agency performed that duty before the transfer.

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

221 908.106 Reimbursement of costs.—Each county correctional  
222 facility shall enter into an agreement or agreements with a  
223 federal immigration agency for temporarily housing persons who  
224 are the subject of immigration detainers and for the payment of  
225 the costs of housing and detaining those persons. A compliant  
226 agreement may include any contract between a correctional  
227 facility and a federal immigration agency for housing or  
228 detaining persons subject to immigration detainers, such as  
229 basic ordering agreements in effect on or after July 1, 2019,  
230 agreements authorized by section 287 of the Immigration and  
231 Nationality Act, 8 U.S.C. s. 1357, or successor agreements and  
232 other similar agreements authorized by federal law.



596-02970-19

2019168c2

233 908.107 Enforcement.—

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

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

250 908.108 Education records.—This chapter does not apply to  
251 the release of information contained in education records of an  
252 educational agency or institution, except in conformity with the  
253 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s.  
254 1232g.

255 908.109 Discrimination prohibited.—A state entity, a local  
256 governmental entity, or a law enforcement agency, or a person  
257 employed by or otherwise under the direction or control of the  
258 entity or agency, may not base its actions under this chapter on  
259 the gender, race, religion, national origin, or physical  
260 disability of a person except to the extent authorized by the  
261 United States Constitution or the State Constitution.

596-02970-19

2019168c2

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

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